

WELLINGTON CITY COUNCIL

Hearing of Submissions and Further Submissions

on

Proposed District Plan

Report and Recommendations of Independent Commissioners

Hearing Stream 4

Report 4D

**Commercial Zone and
Mixed Use Zone
General Industrial Zone**

Commissioners

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EXECUTIVE SUMMARY

1. This Report (4D) addresses submissions on the Commercial Zone (COMZ), Mixed Use Zone (MUZ) and General Industrial Zone (GIZ). Submissions on the other CMUZs, as well as the Wind Chapter and the Waterfront Zone, are addressed in Reports 4B, 4C, and 4D.
2. This Report should be read in conjunction with Report 4A, which sets out the background to this Report, including an overview of Hearing Stream 4 and addresses general submissions relating to the CMUZ, including those in relation to the COC.
3. The COMZ is confined to a single site at the entrance to Karori. The specific zoning of that site in the ODP followed an Environment Court appeal.
4. The owner of the site sought to increase the height for the site, and allow residential activity at ground floor level. The site has undergone changes in topography and it has been deemed unattractive for commercial use, and the owner is looking at options for its residential development. We consider, given its residential context, that such options should be available. Unfortunately, the COMZ is not intended to enable residential development.
5. The Panel carefully considered the options for the site and recommends rezoning the site as MUZ, with a Precinct overlay, MUZ-PREC01 – Curtis Street. This recommendation is based on the difficulty to achieve commercial use on the site and the better fit of residential use within its suburban context.
6. We recommend a maximum height of 12m and the inclusion of the site in Height Control Area 1 (MUZ-S1.1), which is compatible with the surrounding height limits.
7. As a result, we also recommend deleting the COMZ from the District Plan, as there is no other site that is covered by this zone.
8. For the MUZ, a range of submissions has been received including requests to rezone land to MUZ, or the extension of the zone.
9. The Panel thoroughly considered the submission of Wellington Tenth's Trust for the Granville Apartment site to rezone from residential zoning to MUZ. While we do not disagree that a mixed use zoning may be appropriate, we were compelled to

recommend retaining the residential zoning for the site because of the lack of clarity as to what the Wellington Tenth Trust proposes for the future of the site.

10. We considered the zoning of Shelly Bay, and agree in part that it is appropriate to retain the split zoning of the site between MUZ and OSZ as the parcels of land extend up the hillside, and are highly visible from a distance. The open space zoning of the hillside is appropriate. We are, however, not convinced that a height increase for the MUZ in this location would be appropriate.
11. We considered a number of submissions that requested changes to the height limits for the MUZ, but generally recommend declining these submissions. While they mostly reasoned that greater capacity for residential use could be achieved with greater height, we were satisfied that the notified limits enabled considerable development capacity, and additional height can be obtained through a resource consent for developments that include residential use.
12. A considerable number of submissions requested changes to the provisions consistent with other zones, which we have largely agreed to for consistency's sake, unless we found that the provision should be specific for the MUZ.
13. We note here that with regard to residential activity in the MUZ for retirement villages we recommend a different approach for the MUZ than for other zones. While we agree that retirement villages fall under residential activities, that are a permitted activity within the MUZ, we are of a mind that retirement villages are not compatible with the MUZ. Bearing in mind, many of the areas zoned MUZ are relatively small, retirement villages can utilise a relatively large amount of land, diminishing the capacity of MUZ to provide for the City's business needs. In addition, retirement villages do not fulfil the purpose of a mixed use zone.
14. Regarding the GIZ, we have not recommended making any changes to the definitions, nor have we recommended to rezone any areas.
15. We have recommended strengthening provisions relating to reverse sensitivity in this zone, and to decline enabling education facilities, other than commercial training facilities, in the GIZ, due to the sensitivities of such facilities to the adverse effects of industrial activities.
16. The Panel considered the appropriateness of drive-through restaurants in the GIZ and found that they are different to permitted take away food outlets, since they

have different space requirements and service wider catchments. We have therefore recommended to update the definition of service retail to exclude drive-through restaurants.

1. COMMERCIAL ZONE (COMZ)

1.1 Introduction and Overview

1. The Section 42A Report that dealt with the Commercial Zone (COMZ) was contained within Part 3 – Commercial and Mixed Use Zones (CMUZ) and the Reporting Officer was Ms Hayes.
2. The COMZ as notified in the PDP is confined to the one site in the City, an area at the entrance to Karori of approximately 1.1ha, bounded by Curtis Street to the east, Whitehead Road to the north, Paisley Street to the west, and Old Karori Road to the south-west. A height limit of 8m was notified for the zone. This site is zoned Curtis Street Business in the ODP, a zoning specific to this site, which was put in place following an Environment Court appeal.
3. Ms Hayes described the purpose and function of the COMZ in her s42A Report as follows:

“The purpose of the COMZ is to provide for a mixture of commercial and residential activities in the western suburbs, while maintaining the centres hierarchy and acknowledging the qualities of the natural and residential environment it is located within – being the Creswick Valley.”
4. The key issues were regarding the following:
 - a. General points relating to the COMZ
 - b. Submissions relating to specific provisions in the COMZ chapter
 - c. Proposed additional COMZ provisions
5. We note that no submissions were received in relation to COMZ-R3 – COMZ-R6 and COMZ-S5, S7 and S8. We do not recommend any changes to these provisions.
6. The submissions received for COMZ-O1, COMZ-O2, COMZ-P2, COMZ-P4, COMZ-P7, COMZ-R1, COMZ-R2, COMZ-R7, COMZ-S2, and COMZ-S4 were all in support of these provisions and sought to retain them in the PDP as notified, which does not require further recommendation from us.

1.2 General Submissions

7. The owner of the site, Prime Property Group¹, sought to increase the height limit in the COMZ to 12m and accordingly change the provisions. In addition, they submitted the COMZ should include residential use as a permitted activity at ground floor level outside of 12m from the centreline of the electricity transmission line which traverses the site, this was opposed by Waka Kotahi². The COMZ as notified only permitted residential activities above ground floor level. In support of its submission, the submitter's planner, Mr Leary, included plans with his evidence for a fully residential development of the site, which is an option the site owner has been exploring, as commercial development options have not appeared feasible.
8. At a broader level, Willis Bond submitted³ that the relationship between the COMZ and other denser zones need to be considered, so as to not restrict development in the COMZ, when neighbouring residential zones are more permissive. This submission was referencing the 8m height limit for the COMZ, which is lower than that for the surrounding MRZ at 11m.
9. Ms Hayes reasoned that the Environment Court had issued a decision that stipulated an 8m height limit was appropriate for this area, which has been rolled over into the PDP. In her s42A report, Ms Hayes supported following the lead of the Court's decision, but in her supplementary evidence following the circulation of submitters' evidence, she agreed that 12m aligns with the height limit of the MDRS, the zoning of the surrounding residential area. She was accordingly comfortable with raising the height limit to 12m.⁴
10. Waka Kotahi⁵, supported by Prime Property Group⁶, sought amendments to the COMZ chapter to clarify the policy direction regarding the integration of active and public transport in the development of the area.
11. While Ms Hayes noted that some amendments have been made to the policy direction, she disagreed with Waka Kotahi's submission. She reasoned that there is clear direction provided in the Introduction and Objectives, and therefore does not

¹ Submission #256

² Further Submission #103

³ Submission 416

⁴ Supplementary evidence, at paragraph 74

⁵ Submission #317

⁶ Further Submission #93

recommend any changes based on this submission point. We agree with Ms Hayes' view and reasoning in this respect.

12. With regard to Prime Property's submission concerning enabling residential activity, Ms Hayes discussed that the purpose of the COMZ, as stated in COMZ-O1, does not align with the request Prime Property made. In this regard, she considered the dominant activity should be commercial not residential. In addition, she noted that a flood hazard layer covers a large portion of the site and residential activity in such an area is restricted. She recommended Prime Property's submission point be rejected.
13. We heard from Mr Leary on behalf of Prime Property that Ms Hayes' recommendations had not taken into account the current conditions of the site. He argued that since the Environment Court decision, the site had been significantly altered, having been filled to raise the ground levels by about 7-8m. In his evidence he also offered the Panel an updated flood model on the current topographic levels that showed that the ponding will now only occur at the south end of the property where it coincides with a stream.
14. Mr Leary questioned the validity of Ms Hayes' reasoning with regard to her reliance on the Environment Court's decision for the height limit. We think Mr Leary has a point when he notes that the Court's decision was based on a particular site-specific scenario. In his view, the site conditions have changed and therefore the decision may not be valid to the new conditions.
15. We were told the land, prior to its Business rezoning, was zoned residential and open space. Mr Leary explained that the owner originally sought a Suburban Centres rezoning under the ODP, to enable a range of uses, including residential and commercial. He also explained how the land owner had pursued several avenues in the past to use the land for commercial activities, but the opposition of neighbours, and the consequent lack of commercial interest prevented them from going ahead.
16. Mr Leary noted that the Environment Court's decision to restrict height to 8m was to align with the residential height limits surrounding it. He also noted that the area in question is the lowest point in its surroundings, and any increase in height will have little effect on the neighbouring context. He also noted that the surrounding residential area has now been proposed to have a height limit of 11m.

17. During a site visit we undertook, we were able to appreciate the location and topography of the site, which confirmed our understanding of Mr Leary's point.
18. The Panel carefully considered the options available for this site. Based on the evidence received, we note that past attempts of commercial development have been unsuccessful, and should the site be developed, that residential activity is the most likely outcome. We note also that residential intensification is the main objective of the NPSUD, and that this is a site that could accommodate additional residential development. While we are aware of the need to also provide for more commercial land, it seems that the market commands the opportunities in this case. We therefore agree with Mr Leary that a primarily residential activity is more realistic on this site. It is also more compatible with the nature of the residential environment within which the site is located.
19. However, this is not the end of the matter. As Ms Hayes discussed, we agree that the COMZ objectives do not align with a primarily residential activity. None of the objectives refer to residential use, and the key objective, COMZ-O1, stated that the purpose of the zone is that "*the Commercial Zone contributes to meeting the City's needs for business land and supports the hierarchy of centres.*"
20. Further, the description of the COMZ in the National Planning Standards is an area used predominantly for 'a range of commercial and community activities' with no reference to residential activities. To enable residential activity at, as well as above, ground floor level in a Commercial zone would appear, prima facie, contrary to the very purpose of such a zone. The submitter could have sought to rezone the site to a residential one, but it appears that the submitter wishes to retain commercial development options by retaining the COMZ.
21. While we consider that a residential rezoning may have been one option to enable a development that would be compatible with the surrounding residential environment, that option would have not been consistent with the outcome sought by the submitter.
22. We asked Ms Hayes whether the COMZ was the most appropriate zoning for the site, given it is the only such zoned site in the City and given the development aspirations of the owner. In her reply, Ms Hayes explained that options for the zoning of the site were explored in the development of the PDP, including that of a MUZ zoning. One such option was to re-house the provisions in a MUZ supported

by a precinct. This option anticipated a mixture of land uses including residential activities.

23. In her reply, Ms Hayes made the point that the COMZ as notified does not differ from the MUZ in a number of key aspects, including only providing for residential activities above ground floor level. We accept the point, but as Ms Hayes acknowledged, the National Planning Standards direct that the MUZ is for an area where a mix of residential and commercial activities are anticipated, unlike the COMZ.
24. In her reply, Ms Hayes helpfully included a revised MUZ Chapter that includes a new MUZ-PREC01 – Curtis Street, which carries over the provisions of the COMZ to the new precinct.
25. In considering the options, our recommendation is to rezone the site as a special precinct within the MUZ, which will allow for a more moderate mix of residential and commercial activities, and is a better fit within the surrounding residential context. The rezoning recommended is a better alignment with the objectives of the MUZ.
26. As we have not received a submission requesting the rezoning, but it will provide relief sought by Prime Property and better align with the provisions in the PDP, we note that this is a recommendation we make under Clause 99(2)(b) as an out-of-scope recommendation. Such a rezoning is consistent with enabling greater housing and business capacity in the City under the NPSUD than could be necessarily achieved under a COMZ zoning.
27. While we largely adopt the suggested provisions of the MUZ-PREC01 – Curtis Street as suggested in Appendix E of Ms Hayes' Reply, there are a few aspects with which we hold a different point of view, namely:
 - Residential activity at ground floor level, and
 - Maximum Building Height.
28. In relation to the first point, we do not accept that keeping residential activities to above ground floor level is necessarily an effective way to manage the potential for reverse sensitivity effects. A mix of commercial and residential land uses (including ground level residential units) could effectively function on the same large site if designed in a way that limited the potential for reverse sensitivity effects, particularly if that site had multiple road frontages. Any development within the site would require resource consent to assess urban design considerations, including the

management of potential incompatible activities. We therefore recommend removing the requirement for residential activities to be above ground floor level as a permitted activity, and amending the policy on potentially incompatible activities by deleting “residential activities at ground floor level”.

29. In relation to the second point, we largely agree with the submitter’s planning expert, Mr Leary, that an 8m maximum building height for this zone does not appear appropriate, given the 11m limit in the surrounding residential zone. It is somewhat contrary to the enabling direction of the NPSUD. We therefore recommend a maximum building height of 12m, which is more consistent with the surrounding MRZ and the site’s location at the base of a valley. As we noted above, Ms Hayes supported this increase in height through her supplementary evidence.

1.3 Submissions on COMZ Provisions

30. As in previous sections, only respond here to provisions that were challenged.

COMZ Objectives

COMZ-O3 – Amenity and Design

31. The RVA⁷ opposed COMZ-O3 in part, as they believe the wording is inconsistent with Objective 1 of the MDRS. They requested that the word ‘positively’, which qualifies the contribution to the context, be removed.
32. Ms Hayes reasoned that the MDRS relates to the residential zone, not the COMZ in the first instance. In addition, she noted that the PDP objectives seek high quality development and the word ‘positively’ signals the standard Council expects. Therefore, she recommended no changes to this provision.
33. We agree with Ms Hayes, insofar as the applicability of the MDRS to residential zones is concerned. However, we disagree with her on rejection of RVA’s submission point regarding the deletion of the word ‘positively’. We agree with RVA that the word ‘positively’ is not required, since qualifiers referring to good quality and well-functioning environment are sufficient.

⁷ Submission # 349

COMZ Policies

COMZ-P1 – Enabled Activities

34. Dept of Corrections⁸ opposed COMZ-P1, requesting an amendment that includes community corrections activities. It supported COMZ-P1.4, as long as this includes the establishment and operation of transitional accommodation activities as required for correctional purposes.
35. MoE⁹ sought that COMZ-P1 be amended to include educational facilities.
36. In addition, Ms Hayes pointed out an error in drafting COMZ-P1, and recommended the deletion of the reference to large scale integrated retail activities in COMZ-P1.4.
37. With regard to Dept of Corrections' submission points, Ms Hayes' assessment pointed us to the definition of Community Corrections Activities and noted that these activities align with the purpose of the COMZ, and therefore it is appropriate to include them in the list of activities. We agree.
38. Ms Hayes did not assess the second point made by Dept of Corrections relating to whether 'residential activities' includes transitional accommodation for correctional purposes. In our view, residential activities are excluded from the definition of Community Corrections Activities. However, as we discuss in Report 2A, we consider the definition of 'residential activities' would include Community Corrections Activities in relation to transitional residential use.
39. Regarding the submission from the MoE, Ms Hayes noted that while resource consent can be sought for educational facilities, the COMZ is a scarce resource that should be available for its primary intended use. In response, she recommended rejecting this submission point. We agree that educational facilities are not an integral use for a COMZ. We would also note the Ministry is a requiring authority and could designate land for educational purposes if necessary.
40. As regards the error in COMZ-P1.4, it seems clear to us that this is a minor amendment that should be corrected. The provision relates to residential activities and reference to retail activity has no relevance here.

⁸ Submission #240

⁹ Submission #400

41. Prime Property Group¹⁰ opposed provisions that restrict residential use on the ground floor in COMZ-P3 – Potentially Incompatible Activities. Ms Hayes considered that the limitations should be retained, to allow for sufficient commercial development capacity, and provide active interfaces at ground level. She noted that allowing residential activity at ground level would not align with the objectives for the COMZ.
42. As a result, Ms Hayes rejected this submission point. However, for the reasons we provided in relation to recommending the site come within the MUZ as a special precinct, we do not agree. We also refer to our discussion of Prime Property Group's submission in Section 1 of this Report 4D.

COMZ-P5 Quality Design-neighbourhood and townscape outcomes

43. McDonald's¹¹ and Foodstuffs¹² sought amendments to COMZ-P5 to include recognition of functional and operational requirements in the policy.
44. Ms Hayes disagreed with this amendment, noting that the policy directs quality design outcomes that apply to all developments, and where functional and operational needs require consideration, this is included in the assessment criteria within the appropriate Standards. We agree with her recommendation and note that this outcome is consistent with other zones in the PDP.
45. While there was no submission to that effect, Ms Hayes considered that, for consistency with other zone provisions, there is a need to include reference to the Design Guide in the COMZ policies (COMZ-P5, COMZ-P6) and make consequential changes to remove the reference in COMZ-R9 and COMZ-R10. We agree with the need for consistency throughout the PDP and recommend this inclusion and amendment as an out-of-scope recommendation under clause 99(2)(b) of the First schedule.

¹⁰ Submission #256

¹¹ Submission #476

¹² Submission #274

COMZ Rules

COMZ-R8 - Demolition of Buildings and Structures

46. While GWRC¹³ supported COMZ-R8, it sought amendment in relation to waste disposal. This matter has been addressed in the HRZ and other zones and collectively the Council Officers have rejected this submission on the basis that this would be impractical to enforce, and the Solid Waste Management and Minimisation Bylaw 2020 regulates the disposal of construction waste which demolition projects need to adhere with. We agree with the Council Officers.

COMZ-R9 – Construction of, or Additions and Alterations to, Buildings and Structures

47. While RVA supported COMZ-R9 in principle, it sought amendments as to the inapplicability of the rules to retirement villages, adding a set of specific rules for retirement villages instead.
48. Ms Hayes recommended accepting RVA submission in part, and, to align the zone with the recommended provision for retirement villages in the HRZ, a specific policy and enabling rule should be included. She considered that a different approach should be applied for CMUZ in comparison to residential zones, given the differing zone purposes, environments and anticipated activities across these zones.
49. Ms Williams for Ryman and RVA noted in her evidence¹⁴ that she disagreed with Ms Hayes and that in her view provision for retirement villages in the COMZ and MUZ should be treated in the same manner as residential development. She considered that intensification is also required in non-residential zones, and in her view Policy 3 of the NPSUD enables residential intensification in centre zones, and changes the way how centre and commercial zones have to provide for residential activity.
50. The Panel notes that the Reporting Officer's recommendation is indeed different to the approach taken in the Residential Zones (HRZ and MRZ) that was supported by Mr Patterson, the Reporting Officer for Stream 2, (and the Hearing Panel in Report 2A).
51. However, we think there is good reason not to provide specifically for retirement villages in the COMZ because retirement villages can take up a lot of valuable land

¹³ Submission #351

¹⁴ HS4, Evidence of Nicola Williams for Ryman and RVA, clause 54

for solely residential purposes, which we think is inappropriate for the COMZ, which is intended predominantly for a range of commercial and community activities.

52. While the NPSUD requires intensification in general, it also requires providing sufficient and suitable land for commercial and industrial activities. We also note that the land available for COMZ is scarce in comparison with the land available for residential activities across the City, and should include commercial use as much as possible. We therefore recommend rejecting this submission point.

COMZ Standards

COMZ-S1 Maximum Height

53. Prime Property Group, RVA and Waka Kotahi¹⁵, sought a height increase from the 8m limited in COMZ-S1, and this change was supported by Ms Hayes in her Right of Reply. We discuss the height limit in the area to which the COMZ applies above (refer paragraph 29). Our conclusion is that a 12m height limit is more appropriate in light of the increased height limit in the surrounding residential areas to 11m, and recommend accepting these submission points.

COMZ-S3 – Minimum ground floor height / COMZ-R4 – All other land use activities / COMZ-R6 – Heavy Industrial activities

54. In relation to COMZ-S3, COMZ-R4 (now COMZ-R6), COMZ-R6 (now COMZ-R8) submissions in opposition have been received from several submitters¹⁶. We note that we discuss these matters in relation to Centre Zones in Report 4C, and agree with Ms Hayes' recommendations there, to amend these standards to align with our recommendations for equivalent standards in the Centre Zones for consistency.

1.4 Proposed Additional COMZ Provisions

55. A number of submissions¹⁷ sought additional provisions primarily relating to the rules. RVA sought to include a policy that permits retirement villages within a COMZ, and an associated rule that enables retirement villages as a permitted activity. MoE sought that education facilities are a permitted activity and Dept of Corrections sought likewise that community corrections activities are permitted.

¹⁵ Submissions # 256, #350, #103

¹⁶ Submissions #274, #349, #476

¹⁷ Submissions #350, #400, #240

56. Ms Hayes recommended the first two submissions be rejected based on her recommendations for amendments sought for the policies. The new rules sought were consequential changes with regard to the policies, which Ms Hayes likewise recommended to be rejected. The only exception is the submission from Dept of Corrections, where she accepted the inclusion of Community Corrections Activities in the policy, and subsequently accepted the inclusion of a new rule for these activities as being permitted. We agree with her reasoning and recommendations.
57. Turning to RVA's submission to include a new policy that allows the provision of retirement villages in the COMZ, we refer to our reasoning above in paragraphs 47 to 52 where we explain why we disagree that retirement villages do not align with the objectives of the COMZ. In any event, we have concluded that the most appropriate course of action is rezone the Curtis Street site to a modified form of Mixed Use Zoning (through a new Precinct in the MUZ) that would allow a mix of commercial and residential activities. Under that zoning, retirement villages would be provided as a discretionary activity to consider whether the proposal is consistent with the objectives and policies of the Zone.

1.5 Minor and Inconsequential Amendments

58. In the final section of the section 42A Report for the COMZ, Ms Hayes noted a number of amendments that relate either to renumbering due to changes accepted, or are consequential changes for changes made in other zone chapters. We agree with the changes made on the basis that they are consequential.
59. However, in light of our recommendations to rezone the land at Curtis Street to which the COMZ applies as notified in the PDP, it follows that we recommend the full deletion of the COMZ Chapter and its provisions from the District Plan. This is because, through the rezoning of the land to MUZ, there is no land covered by the COMZ in the District Plan. Therefore, any minor or inconsequential amendments would be redundant. However, any recommended minor amendments to the COMZ that are relevant to the new MUZ-PREC01 provisions are recommended to apply.

2. MIXED USE ZONE (MUZ)

2.1 Introduction and Overview

60. The Section 42A Report that considered the Mixed Use Zone (**MUZ**) was contained within Part 3 – Commercial and Mixed Use Zones (**CMUZ**) and the Reporting Officer was Ms Lisa Hayes.

61. There are approximately 15 MUZ areas within Wellington City, ranging from small clusters of properties adjacent to residential zoned land, to expansive stretches of land close to the waterfront.

62. The PDP Strategic Objective CEKP-O3 describes the role and function of the MUZ as:

“Mixed use and industrial areas outside of Centres:

- 1. Complement the hierarchy of Centres;*
- 2. Provide for activities that are incompatible with other Centres-based activities; and*
- 3. Support large scale industrial and service-based activities that serve the needs of the City and wider region.”*

63. This report addresses the following key topics:

- a. General points relating to the MUZ;
- b. Submissions relating to zoning;
- c. Submissions relating to specific MUZ provisions; and
- d. Proposed additional MUZ provisions.

64. Ms Hayes noted that there were no submissions in relation to MUZ-R2, MUZ-R4, MUZ-R7, MUZ-R8, MUZ-R9 and MUZ-R11.

65. There were a number of provisions that were the subject only of submissions in support, and which sought that the respective provisions are retained as notified. They included MUZ-O1, MUZ-O3, MUZ-O5, MUZ-P4, MUZ-P7, MUZ-R3, MUZ-R5. We accept them as they stand, and do not comment further on those provisions.

2.2 General Submissions

Submissions in opposition

66. The submission from Michael O'Rourke¹⁸ noted that while he was generally concerned about the housing intensification in Newtown, he largely agreed that the MUZ areas as notified were suitable for high density. He considered that a double zoning (MUZ and HRZ) could be applied. As Ms Hayes pointed out, generally only one zone applies to an area throughout the Plan, and high density residential development is permitted in the MUZ. Therefore, she considered no changes to the Plan are necessary, and so do we.
67. Simon Ross¹⁹ considered that the MUZ should be extended to include all areas where development over three storeys is allowed, all corner sites in residential areas, and the areas around Johnsonville Line stations. Ms Hayes noted that while mixed use is not a Permitted Activity in all zones, it is also not prevented from occurring. However, it would require a resource consent. She considered that no change is required on the basis of these submissions, and for the reasons set out in her report²⁰, we agree with her view.
68. Wellington Tenth Trust sought amendment to the MUZ to provide for potential future development opportunities of their specific site of the Granville Apartments. More specifically, the Wellington Tenth Trust submission requested a change of zoning for 557-559 Adelaide Road from Residential to Mixed Use Zone and an increase in height. The Trust's submission also noted that development in the MUZ needs to be of a nature and scale that supports the social, cultural and economic importance of the City Centre Zone and other CMUZ²¹.
69. Ms Hayes²², was not entirely certain of the relief sought in relation to the site. She noted that the MUZ enabled a range of activities as set out in MUZ-P2, which are considered to enable future development opportunities.
70. At the hearing we heard from Vicki Hollywell (General Manager), Anaru Smiler (Chairman & appeared virtually), Liz Mellish (Chairperson, Palmerston North Māori Reserve Trust) and Christine Fox (Trust Secretary). They outlined the history of the

¹⁸ Submission #194.16

¹⁹ Submissions #37.1, 37.7-9.

²⁰ HS4, Section 42A Report, MUZ, Lisa Hayes, para27

²¹ Submission #363.3 and #363.4

²² Stream 4, Section 42A Report at paragraph 28

site in terms of ownership and use and their potential development options for the site their aim being to optimise the benefits for the members of the Trust. They indicated that the likely or possible development would consist of a mixture of health and support services, residential including aged care, and hospitality. They saw the development providing a greater link with the community and existing activities of the surrounding area. To optimise the opportunities for the site and maximise the benefits, they sought an increased height and a change of zoning from residential to mixed use.

71. The request for the increase in height has been considered in Stream 2, and is addressed in Section 4.3 of Report 2A. The requested change of zoning from Residential to Mixed Use is addressed here.
72. In reply, Ms Hayes agreed with Mr Patterson's view in his Stream 2 assessment of the Wellington Tenth's Trust submission, that a spot zoning is not generally appropriate. However, she noted that this site is at the southern periphery of the MRZ, with the land to the south zoned Wellington Town Belt Zone (WTBZ). Hence a change to the zoning may be appropriate as the site is at a transition between zones. In addition, she was inclined to agree with the Wellington Tenth's Trust that a more permissive zoning would assist it to optimise the benefits of the site and facilitate a development with wider community benefits. This would align with the strategic direction of the District Plan, namely objectives AW-O2 and CEKP-O5.²³
73. In conclusion, however, Ms Hayes²⁴ did not consider that sufficient analysis had been undertaken through the District Plan review to understand the implications of the rezoning and recommended that it be rejected.
74. We understand that, to the Trust, this is a chicken and egg situation. The Trust requests increased height and a MUZ zoning which it considers will provide certainty to optimise development opportunities for the site. However, the details of the potential development are not at the level required to support their requests. We agree with Ms Hayes that spot zoning at this site may be appropriate because it is at a transition between zones, and that the Trust's aspirations for the site would both align with MUZ, and would be supported by strategic objectives AW-O2 and CEKP-O5. We also consider that the Restricted Discretionary Activity status under

²³ Stream 4, Written Reply at paragraph 74

²⁴ At paragraph 75

the MRZ provisions does provide a consenting pathway for realising the Trust's aspirations for development on the site once these are further developed.

75. However, like Ms Hayes, we consider that more work is required before rezoning can be supported. We therefore recommend rejection of the Trust's submission.
76. The submission from Miriam Moore²⁵ sought that incentives be provided to develop the MUZ land in Tawa for residential purposes. Ms Hayes considered that residential activity above ground floor is a Permitted Activity in the MUZ, and therefore no changes to the Plan are required. We agree with her recommendation.
77. Mr Wilson opposed the provisions applying to the Tawa Railway Station. However, he sought no particular relief, nor did he provide specific reasons for his opposition. We agree with Ms Hayes, that no changes be recommended due to the lack of clarity of this submission.

2.3 Alignment with other zones

78. Willis Bond²⁶ sought that the Council consider the relationship between MRZ and other denser zones, including the MCZ, LCZ, NCZ, MUZ and COMZ, to ensure that development in these zones is not unduly restricted in these zones when the adjoining residential provisions are more permissive²⁷.
79. The Reporting Officer noted that the PDP is drafted to ensure that the CMUZ enable greater development potential than the surrounding residential zones and that she was confident that this is the case with respect to the MUZ. She concluded that no changes to the MUZ provisions are necessary as a result of the Willis Bond submission. We concur²⁸.

2.4 Submissions relating to Mixed Use Zoning

80. Tawa Community Board²⁹ submitted that the land at 10 Surrey Street, Tawa, is one of the largest parcels of land in single-ownership in this area, and one of the most suitable sites for the highest height limit to encourage future development of centre-like mixed housing and business use. It sought that the land is rezoned from MUZ to LCZ.

²⁵ Submission #433.16

²⁶ Submission #416.96

²⁷ HS4 Section 42A Report MUZ Lisa Hayes para 34

²⁸ We note that this submission point is addressed in each of our zone Reports.

²⁹ Submissions #294.5, #294.17

81. Ms Hayes noted that the activities sought through the zoning change to LCZ are also enabled through the MUZ. She confirmed that a height limit of 22m is proposed, and in addition, the purpose of the MUZ is broader than that of the LCZ. We agree with Ms Hayes, that no zoning change is required to achieve the “*centre-like mixed housing and business use*” that is sought by the submitter, and note that through the broader purposes of the MUZ, it will provide for a greater variety of uses than the LCZ. We therefore recommend 10 Surrey Street remain as MUZ.
82. Taranaki Whānui³⁰ opposed the extent of the current MUZ at Shelly Bay Taikuru and the notified height limits. It sought amendments to both the zone boundary and maximum building height (MUZ-S1) as follows:
- a. That the interests of Taranaki Whānui in Shelly Bay Taikuru are given recognition in the Plan;
 - b. That the planning framework as set out in the consented Shelly Bay Masterplan and Design Guide is adopted as the default planning settings for the landholdings within the scope of the granted consents;
 - c. That the height limit is increased to 27 metres across Shelly Bay, as this is the maximum height of the development that has resource consent; and
 - d. That the MUZ is extended across allotments illustrated in the attached figure amended to follow the extent of consented development area outlined in the approved masterplan and engineering drawings.
83. Ms Hayes assessed these submission points and noted that either she largely disagreed with the relief sought, or could not assess changes proposed, because the submitter had not provided alternative provisions to the ones opposed. However, she conceded that the extent of the MUZ boundary should align with the parcel boundaries identified in the submission to avoid split-zoning. We note that the submitter did not appear at the hearing, nor provide us with evidence to support their submission.
84. In our view, however, a split zoning is appropriate in this situation as the parcels of land involved extend well up the adjacent hillside, which are visible from some distance. The resource consents granted for the development of this site did not

³⁰ Submissions #389.16, #389.21

occupy all of the parcels. Accordingly, we consider it is more appropriate to keep the hillside in OSZ.

85. Michelle Rush³¹ sought generally the extension of the MUZ around NCZ, LCZ, MRZ and HRZ, to provide environments for people to work, live, access services and the like. Ms Hayes noted that the relief sought is already achieved through the existing zone framework, where mixed use activities are enabled in and around neighbourhoods and established LCZs and NCZs, as sought by the submitter. She noted that these activities can occur in a range of zones, although subject to a resource consent, where these are in a residential area. Consequently, she did not consider any rezoning necessary because of this submission, and neither do we.

2.5 Submissions relating to specific Mixed Use Zone provisions

Introduction

86. Kāinga Ora³² sought amendments to the Introduction to better acknowledge the context and that activities in the vicinity of the MUZ may change in the future by including “*anticipated future*” context, and “*anticipated future*” sensitive activities. Ms Hayes disagreed to include the word anticipated, because it can be taken to mean ‘Permitted’, as has been established in caselaw³³.
87. Mr Heale for Kāinga Ora provided evidence that noted that decision makers need to have particular regard to the planned urban built form that is anticipated as a Permitted Activity, and this needs to be made clear in the provisions. Ms Hayes’ response was that any development needs to consider the ‘existing environment’ by default, which in her view includes existing, consented, and permitted developments, which renders the changes proposed unnecessary.
88. The Panel agrees with Ms Hayes that the addition of the words “*anticipated future*” does not add any further clarity to the Introduction. To single out a focus on the anticipated future would put undue emphasis on permitted development, which needs to be seen in context with the existing and consented environment. We therefore recommend no changes be made based on this submission.

³¹ Submissions #436.5, #436.17

³² Submission #391.611, #391.612

³³ Sydney Street Substation Limited v Wellington City Council, CIV 2017-485-11 [2017] NZHC 2489

Objectives

MUZ-O2 – Accommodating Growth

89. FENZ, Restaurant Brands Limited, Z Energy, Kāinga Ora and Willis Bond³⁴ supported MUZ-O2 and sought that it be retained as notified.
90. As with equivalent objectives for other Centre zones, MoE³⁵ supported MUZ-O2 in part and sought amendment to explicitly recognise and provide for educational activities in the MUZ. We discuss this in detail in Report 4C as it relates to the MCZ, and recommend the words “*additional infrastructure*”. Our recommendations are the same in this context.

MUZ-O4 – Amenity and Design

91. Restaurant Brands Limited, Z Energy, Kāinga Ora and Willis Bond³⁶ supported MUZ-O4 and sought that it be retained as notified, which we acknowledge.
92. RVA³⁷ opposed the objective in part on the basis that the wording is inconsistent with Objective 1 of the MDRS. It sought the removal of the word “*positively*”. Ms Hayes disagreed, because she found value in this qualifier as an indicator for the expected standard.
93. In Report 2A, the Hearing Panel accepted RVA’s submission seeking to delete the word “*positively*” from MRZ-O2 on the basis that it would allow for a ‘neutral’ contribution and therefore better align with the NPSUD, especially Policy 1. To be consistent across the Plan, we accept RVA’s submission and recommend deletion of the word here also.

Policies

MUZ-P1 – Accommodating Growth

94. We acknowledge that Restaurant Brands Limited, RVA, Z Energy and Willis Bond³⁸ supported MUZ-P1 and sought that it be retained as notified.

³⁴ Submissions #273.280, #349.126, #361.49, #391.615, #416.98

³⁵ Submissions #400.134-135

³⁶ Submissions #349.128, #361.51, #391.617, #416.100

³⁷ Submissions #350.262, #350.263

³⁸ Submissions #349.130, #350.265, #361.53, #416.102

95. Kāinga Ora³⁹, supported by Waka Kotahi, agreed with MUZ-P1 in part and sought an amendment including the wording “*residential activities co-locate*”. It also submitted that affordability and distribution cannot be managed through the District Plan, and that MUZ-P1.1 should be amended to replace the word “*variety*” with “*choice*”.
96. Ms Hayes disagreed that the Plan cannot manage affordability and distribution of housing. She considered that the provision of different housing typologies in different areas has a direct effect on affordability and distribution, which will be assessed in the resource consent process, because it is included in the Plan provisions. We agree with Ms Hayes’ view.
97. Ms Hayes noted in addition, that the change sought by Kāinga Ora regarding co-location has the potential to conflate the importance of residential activities within the zone. The current intent of the Policy is including residential activity as one of a number of activities permitted in the zone. We agree that residential activity is an important element of the MUZ, but in our view, it does not require additional focus. We recommend this submission point be rejected.
98. Ms Hayes agreed with the change of wording proposed by the submitter, replacing “*choice*” with “*variety*” as a description of the building types that should be provided. We agree that “*variety*” goes more to the point of the Policy.
99. Kāinga Ora⁴⁰ requested that the word “*convenient*” be removed from MUZ-P1.3, and “*public transport*” be added. Ms Hayes did not agree that the convenience of access to state highways and transport routes should be deleted, although she conceded that it may be an unnecessary qualifier. While we agree with Ms Hayes’ recommendation to retain the word, we do not share her reasoning for doing so. In our view, it is important to provide convenient access to these means of transport to provide for shorter commutes and as an end-result for more sustainable travel that in turn contributes to the carbon zero goal.
100. Ms Hayes noted that the inclusion of convenient “*public transport*” may be misconstrued during the resource consent assessment, noting that ‘convenience’ in that respect is subjective. Since public transport typically runs along key transport

³⁹ Submissions #391.619-620, Further Submission # 103.21

⁴⁰ Submission #391.620

routes, she found reference to public transport was in this case redundant. We agree.

MUZ-P2 – Enabled Activities

101. FENZ, Restaurant Brands Limited, Z Energy, MoE, and Willis Bond⁴¹ supported MUZ-P2 as notified, and we acknowledge those submissions.
102. Kāinga Ora⁴² sought that MUZ-P2 is retained with amendment and sought to replace the term community correction “*facilities*”, which has no definition in the Plan, with “*activities*”. In addition, it submitted that residential activities (on ground floor) should be permitted at the rear of buildings⁴³, or generally away from the road frontage.
103. Ms Hayes agreed, and so do we, that the terminology should be Community Corrections Activities. That aligns with other CMUZ chapters.
104. With regard to the provision of residential activity at ground floor at the rear of buildings Ms Hayes noted that commercial land is scarce and to retain the commercial activities on ground floor level, even facing away from the street, is crucial. We agree that the MUZ has ample potential to include residential activity on upper levels and the relatively restricted scope for commercial/business activity should be retained, for services to be available for the residential occupants in relatively close proximity, and to ensure an appropriate supply of business land into the future. We therefore recommend this submission point be rejected.

MUZ-P3 – Enabled Activities

105. Restaurant Brands Limited, Z Energy and Kāinga Ora⁴⁴ supported MUZ-P3 and sought that this is retained as notified. Foodstuffs opposed that outcome.
106. McDonalds and Foodstuffs⁴⁵ sought that MUZ-P3 is retained with an amendment that recognises functional and operational needs. Similarly, Woolworths, which was supported by Foodstuffs⁴⁶, considered that supermarkets that infringe MUZ-R12 should be able to be accommodated in the zone under MUZ-P3, if there is a

⁴¹ Submissions #273.281, #349.131, #361.54, #400.136, #416.103

⁴² Submission #391.621

⁴³ Submission #391.622

⁴⁴ Submissions #349.132, 361.55, #391.623, Further Submission # 23.49

⁴⁵ Submissions #274.39-40, #476.36-37

⁴⁶ Submission #359.70, Further Submission #23.14

functional need to do so, and effects on the Centre are managed, which should be acknowledged in the Policy. In addition, it submitted that the word “only” be deleted from the chapeau of MUZ-P3.

107. Ms Hayes noted her disagreement, and stated that the word ‘only’ signals the intent of the Policy to manage larger-scale retail activities, discouraging activities that do not align with MUZ-P1. She recommended this submission point be rejected.
108. Ms Key for Foodstuffs acknowledged in her evidence⁴⁷ that if the amendment sought by Foodstuffs would be included as a new clause in the Policy, it would have the unintended consequence to require the assessment of functional and operational needs in all cases. She noted that the word ‘require’ would have to be changed to ‘recognise’ to avoid this.
109. We discuss functional and operational needs in other reports, as this was a topic of repeated concern throughout the zones, but note here Ms Hayes’ response:

*I consider that it is inappropriate to amend the policy as requested by the submitters as this sets an expectation that these activities may be possible within the zone if the developer can make a case in line with MUZ-P3. Given the intent of the policy is to discourage these activities, in my view this expectation should not be introduced.*⁴⁸

110. We agree with Ms Hayes’ recommendation and note that rejection of this submission point is in alignment with our recommendation for the same request in other zones.
111. Ms Hayes noted that for consistency, she recommended that the word ‘viability’ is removed from the policy. The reasons for this change are set out at paragraph 88 of Part 2 (Metropolitan Centre Zone) of the s42A Report. We concur with Ms Hayes’ reasoning and recommendation.

MUZ-P5 – Residential activities

112. We acknowledge that Restaurant Brands Limited⁴⁹ and Z Energy supported MUZ-P5 and seek that it is retained as notified.

⁴⁷ HS4, Statement of Evidence of Evita Key on behalf of Foodstuffs, clause 6.12

⁴⁸ HS4, Section 42A Report, MUZ, Lisa Hayes, para 98

⁴⁹ Submissions #349.134, #361.57

113. RVA⁵⁰ opposed restrictions on retirement villages being established at ground floor level and sought that MUZ-P5.1 be deleted.
114. Kāinga Ora, opposed by RVA and Ryman⁵¹, supported MUZ-P5, but sought amendments to enable ground floor residential activities at the rear of properties. The submitter also sought an amendment to remove reference to “*reverse sensitivity*”.
115. We discuss the matter of ground floor rear residential properties in this report in paragraph 104 in relation to a submission from Kāinga Ora, and recommend its submission be rejected. The same reasoning applies here for the use of ground floor spaces as retirement villages. We note in addition, that the submitter has not provided any reasoning why RVA opposed the restrictions on retirement villages at ground floor.
116. Regarding Kāinga Ora’s submission to remove the reference to “*reverse sensitivity*”, Ms Hayes considered that particularly in the MUZ, where light industrial and yard-based activity is considered appropriate alongside residential activity it is important to assess effects of reverse sensitivity, to achieve a functioning mixed use environment. We agree.
117. Ms Hayes noted that she recommended to include a reference to the Design Guides in the Policy and remove all references from the Rules, as was recommended throughout the Plan provisions for all CMUZ. As elsewhere in our report for equivalent Policies, we agree with deletion of Design Guide references in the rules, and reliance on the relevant policies, which refer, in this case, to the CMUDG.

MUZ-P6 – Design of new development

118. While Restaurant Brands Limited, Kāinga Ora and Z Energy⁵² supported MUZ-P6 and sought that this is retained as notified, which we acknowledge, Ms Hayes recommended that for consistency with the other CMUZ, MUZ-P6 be amended to also reference the Design Guides, with a related change to MUZ-R16 (now MUZ-R17) to remove direct references to the Design Guides in the Rule. She noted that this is a consequential change of amending MUZ-R16 (as requested by a number of

⁵⁰ Submission # 350.266

⁵¹ Submission #391.625, 391.626, Further Submissions #126.157, #128.157

⁵² Submissions #349.135, #391.627, #361.58

submitters). It will allow for the removal of references to the Design Guide from MUZ-R16, noting that an assessment against the policy is required as a matter of discretion under that Rule.

119. As for MUZ-P6, we agree with the suggested approach of deleting Design Guide references from the rules, and relying on the policy reference to the CMUDG.

Rules

MUZ-R1 – Commercial Activities

120. We acknowledge that McDonald's and Restaurant Brands Limited⁵³ supported MUZ-R1 and sought that it is retained as notified.
121. While Z Energy Limited⁵⁴ supported MUZ-R1 in part, it sought clarification where a yard-based retail activity would sit within this rule framework, because it is, unlike in other CMUZ, not specifically mentioned in a rule.
122. Ms Hayes considered that it is not necessary to provide specific rules for yard-based activities in the MUZ because, unlike in other Centre zones, where yard-based activities are 'potentially incompatible', they are Permitted in the MUZ, and rules are in place that capture this (without mentioning yard-based activities by name). We agree with Ms Hayes' reasoning, and recommend that no changes are required for this Rule.

MUZ-R6 – Community corrections activities

123. As per the assessment in relation to MUZ-P2 above, Dept of Corrections⁵⁵ identified a minor drafting error. Ms Hayes agreed that it should refer to "*community corrections activities*" and recommended that the reference is amended. This is consistent with other zones in the District Plan, and we likewise recommend this change be made.

⁵³ Submissions #274.41, #349.137

⁵⁴ Submissions #360.60-61

⁵⁵ Submissions #240.48-49

MUZ-R10 – Residential activities

124. Dept of Corrections⁵⁶ supported MUZ-R10 and sought that this is retained as notified.
125. Kāinga Ora, supported by RVA and Ryman⁵⁷, supported MUZ-R10 in part, but again requested a change to allow residential activities to be located on the ground floor of a building that does not have road frontage.
126. We refer back to our earlier recommendations in this report in relation to residential activities at ground floor level in the context of MUZ-P2 and MUZ-P5, and likewise recommend these submission points be rejected for the same reasons as stated earlier.

MUZ-R12 – Supermarkets

127. Woolworths, supported by Foodstuffs⁵⁸, sought that MUZ-R12 is retained, but considered the express exclusion of the permitted baseline assessment to be an unnecessary inclusion in the context of the Restricted Discretionary Activity status, which conveys that larger supermarkets may be appropriate in the zone.
128. Ms Hayes agreed with the submitter, and noted that it should be the resource consent assessing planner that undertakes that assessment. She also considered that the similar clause in MUZ-R11 should consequently also be deleted.
129. We agree with Ms Hayes' recommendation and accept her reasons.

MUZ-R13 – All other activities

130. Z Energy Limited⁵⁹ sought that MUZ-R13 (now MUZ-R14) is retained, but considered again that clarification is needed on yard-based retail activities and where they would sit within this rule framework.
131. We refer the reader to our earlier recommendation in regard to MUZ-R1 in reference to the yard-based activity. We consider that no change is required here also, for the same reasons.

⁵⁶ Submission #240.50

⁵⁷ Submissions #391.629-630, Further Submissions #126.158, #128.158

⁵⁸ Submissions #359.71-72, Further Submission #23.15

⁵⁹ Submissions #361.62-63

MUZ-R15 – Demolition or removal of buildings and structures

132. We acknowledge the submissions of FENZ and Restaurant Brands Limited⁶⁰ that supported MUZ-R15 (now MUZ-16) and sought that it be retained as notified.
133. GWRC⁶¹ sought that MUZ-R15 is retained, but sought that it is amended to require all demolition material is disposed of at an approved facility to achieve the Permitted Activity status.
134. We note that consistent with recommendations in relation to the residential zones, and other CMUZ, we disagree with the amendment sought by GWRC and recommend that these submission points be rejected, on the basis that it is too onerous and cannot be adequately monitored.

MUZ-R16 – Construction of, or additions and alterations to, buildings and structures

135. FENZ⁶² supported MUZ-R16 (now MUZ-R17) and sought that this is retained as notified, which we acknowledge.
136. RVA⁶³ sought to amend the Rule as regards the applicability of several clauses to retirement villages, as well as the provision of additional clauses with specific rules that apply to retirement villages only.
137. Ms Hayes referred to her discussion of this matter for the MCZ, in which she agree that, to align with the recommendations for the HRZ and other CMUZ, specific provision should be made to provide for retirement villages, but with a different approach than that sought by RVA.
138. Ms Williams, for Ryman and RVA, noted in her evidence⁶⁴ that she disagreed with Ms Hayes. In her view, provision for retirement villages in the COMZ and MUZ should be treated in the same manner as residential development. She considered that intensification is also required in non-residential zones. In her view, Policy 3 of the NPSUD enables residential intensification in Centre zones, and changes the way how Centre and Commercial zones have to provide for residential activity.

⁶⁰ Submissions #273.284, #349.139

⁶¹ Submissions #351.274-275

⁶² Submission #273.285

⁶³ Submission #350.267

⁶⁴ HS4, Evidence of Nicola Williams for Ryman and RVA, Paragraph 54

139. The Panel notes that the Reporting Officer's recommendation is indeed different to the approach taken in the Residential Zones (HRZ and MRZ) that was supported by Mr Patterson, the Reporting Officer for Stream 2, (and the Hearing Panel in Report 2A).
140. However, we think there is good reason not to provide specifically for retirement villages in the MUZ, because retirement villages can take up a lot of valuable land for solely residential purposes, which we think is inappropriate for the MUZ, where a mix of uses is expected.
141. While the NPSUD requires intensification in general, it also requires provision for sufficient and suitable land for commercial and industrial activities. We also note that the land available for MUZ is scarce in comparison with the land available for residential activities only, and should include commercial use as much as possible. We therefore recommend rejecting this submission point.
142. In a similar vein, Woolworths, supported by Foodstuffs⁶⁵, considered MUZ-R16.2 should be amended to establish matters of discretion specific to supermarket buildings that infringe MUZ-R16.1 standards. It also had concerns relating to the inclusion of the Design Guide within the matters of discretion on account of the unnecessary scope this introduces in a Restricted Discretionary consenting framework.
143. Ms Hayes considered, like her recommendations for the Centre zones, that supermarkets should not be exempt from the requirement to provide high quality building outcomes that enhance the quality of the MUZ. We agree.
144. Restaurants Brands Limited⁶⁶ opposed the cross reference to the Design Guide within the matters of discretion. It suggested that the policies of the MUZ are sufficient to ensure that development achieves "*good quality, well-functioning environment*" as required by MUZ-O3.
145. Likewise, Kāinga Ora, supported by RVA and Ryman⁶⁷, as well as Investore, also supported by RVA and Ryman⁶⁸, supported MUZ-R16 in part, but sought the deletion of the reference to the Design Guides, and instead to include specific design outcomes.

⁶⁵ Submission #359.73, Further Submission #23.16

⁶⁶ Submission #349.140

⁶⁷ Submissions #391.631-632, Further Submissions #126.159, #128.159

⁶⁸ Submissions #450.80-81, Further Submissions #126.95-96, #128.95-96

146. Ms Hayes agreed with these submissions in part, as to the deletion of the reference to the Design Guides in the Rules. She noted that she agreed to removing references to the Design Guides from the Rules, and that the Design Guides need only be referenced at the Policy level. We agree with her reason and the recommendation, and note that the Panel discusses the Design Guides, including their status in the Plan, in Reports 2A (generally) and 4A (in relation to the CMUDG).
147. Miriam Moore⁶⁹ noted that the planning maps show 12m to 15m height limits for the MUZ in Tawa, whereas MUZ-R16.2 shows height limits of 18m to 22m, and sought clarification that all new residential development is subject to the height limits specified in MUZ-S2.
148. Responding to Ms Moore's submission, Ms Hayes clarified which standard applies to which activity, noting that both height limits described by Ms Moore are correct. The lower limits are for Permitted Activities (MUZ-S1), whereas the higher limits are for Restricted Discretionary activities (MUZ-S2). She recommended no changes based on this submission point, and we agree.

MUZ-R17 – Conversion of buildings or parts of buildings for residential activities

149. FENZ, opposed by RVA and Ryman⁷⁰, supported MUZ-R17, sought to include reference to the Three Waters infrastructure, including for firefighting purposes.
150. Consistent with her recommendations for other CMUZ, Ms Hayes considered that reference to the Three Waters infrastructure should be included. However, she did not consider that mention of firefighting purposes was required. We agree.
151. Kāinga Ora⁷¹ supported the Rule in part and sought that it be amended to remove direct references to the Design Guides, and instead include the urban design outcomes sought. Investore, supported by RVA and Ryman⁷², sought very similar relief.
152. The submission was accepted in part, based on the reasoning and recommendation for this submission point that aligns with that for MUZ-R16 above. We recommend

⁶⁹ Submissions #433.16-17, 433.19

⁷⁰ Submissions #273.286-287, Further Submissions #126.40, #128.40

⁷¹ Submissions#391.633-634

⁷² Submissions #405.82-83, Further Submissions #126.97-98, #128.97-98

removal of the reference to the Design Guides in the Rule, because the Policies reference the CMUDG.

153. Ms Moore⁷³ again sought clarification that all new residential development, including the conversion of a building, is subject to the heights specified in MUZ-S2.
154. Ms Hayes noted that MUZ-S2 does not apply to MUZ-R17, as this rule only applies to conversion of existing buildings for residential activities. No changes are recommended as a result of this submission. We concur.

MUZ-R18 – Outdoor storage areas

155. FENZ⁷⁴ supported the rule in part, but sought that it be amended to ensure that the screening will not obscure safety signage or obstruct access to emergency panels, hydrants, shut-off valves or other emergency response facilities.
156. Ms Hayes recommended that the submission points from FENZ are accepted. We agree. This is consistent with her, and our recommendations in relation to the MCZ, LCZ and NCZ. Screening outdoor storage areas should not interfere with emergency or safety signage, or obstruct access to emergency facilities.

MUZ-S1 – Maximum height for the purposes of MUZ-R16.1

157. We acknowledge that Restaurant Brands Limited⁷⁵ sought that MUZ-S1 is retained as notified.
158. Tawa Business Group and Wakefield Property Holdings Limited⁷⁶ sought to increase the Permitted Activity height limit applying to the Tawa Junction site at 10 Surrey Street to 22m (creating a new 'Height Control Area 5' under MUZ-S1). The submitter considered this site is unique as it adjoins an HRZ, which has a permitted height of 21m (22m).
159. Ms Hayes agreed with the suitability of the site to have increased height limits, and recommended the site be moved to MUZ-S1 Height Control Area 4, which allows 18m, instead of the 15m notified.

⁷³ Submission #433.18

⁷⁴ Submissions #273.288-289

⁷⁵ Submission #349.141

⁷⁶ Submissions #107.19, #108.1

160. We heard from Ms Glendinning on behalf of Wakefield Property Holding during the hearing that in her view the feasibility of a development on this site would be limited through a lower height limit of 18m. She noted that the surrounding wider residential context is notified as HRZ with a height limit of up to 21m, and that the site is within walking distance of public transport.
161. It seems to us that the submitter had possibly misinterpreted the standard. As Ms Hayes noted, MUZ-S1 already allows for a height limit of 22m where a development includes residential activity. However, we understand that, particularly in relation to the site's location and context, should a development be proposed that includes predominantly commercial activities, the 18m would limit the height below that of the surrounding area. We also note that this would still be 3m higher than notified.
162. For that reason, we agree with the Reporting Officer that a height limit of 18m is appropriate in this location and recommend the inclusion of the site in Height Control Area 4 to MUZ-S1.
163. Tawa Residential Ventures Limited⁷⁷ sought an amendment to the height control at 4 William Earp Place (Takapu Island), because in its view, the site is suitable for multi-storey residential apartment development. The submitter sought a change in height from 12m to 21m
164. Investore⁷⁸ sought an increase in the height limit for the Takapu Island site to 18m and suggested this height is appropriate having regard to the location of the site.
165. Ms Hayes considered this site is suitable for increased height, as it is bounded by State Highway 1, Main Road and the railway line, and recommended the site be moved to MUZ-S1 Height Control Area 4, which allows 18m.
166. While we note that this submission point was not been addressed during the hearing by Tawa Residential Ventures Limited, which sought a height limit of 21m we accept the reasoning supporting a greater height than notified based on the insular location of the site and its context. We also compare the site with that of 10 Surrey Street and find that if 10 Surrey Street qualifies for a greater height, Takapu Island is certainly situated to profit from greater height as well.
167. We recommend Takapu Island be included in Height Control Area 4, with a height limit of 18m in line with Ms Hayes' recommendation. We note as above, and in

⁷⁷ Submission #71.1-2

⁷⁸ Submissions #405.9, #405.84-85

response to the submission from Tawa Residential Ventures Limited, that a 22m height limit applies where development includes residential activity.

168. Halfway House Heritage Gardeners⁷⁹ sought that the height control of 15m for 236 and 238 Middleton Road (Glenside) is removed, and the height remains at the ODP height of 8m. In the submitter's view, the proposed height impacts on the reserve and garden and does not meet the requirements of documents such as the Heritage Design Guide or their Conservation Plan for the place. They opposed the height controls on the basis that these sites do not meet the NPSUD requirements for housing, as they are not within the City Centre or on a railway line, and there are no neighbourhood shops.
169. Ms Hayes noted that the height limit for Glenside in the ODP is not 8m, but 15m. She disagreed that a height limit of 8m is appropriate in light of the down-zoning effect this would have compared to the ODP. In her view the site can accommodate a height of 15m that will also allow for greater density.
170. Ms Bibby, Halfway House Heritage Gardeners' representative, presented to us that the gardens are significant as the setting of the house and require, as does the riparian planting along the stream, significant sunlight for growth. The height limits proposed would in her view restrict sunlight considerably and jeopardise the successful growth of the plantings.
171. The Panel was invited by Ms Bibby to undertake a site visit, which we took up. We were provided with a list and itinerary of areas to visit, and highlighted points of interest.
172. We could appreciate the work and effort that has gone into the restoration of the building on site, the cultivation of the gardens surrounding it, and the relationship with the stream alongside the property. We also observed the relationship of the site with its wider surrounds and the existing context, referring to the Glenside-Middleton Road corridor.
173. We note that the garden centre at 238 Middleton Road is located at the far end of the almost rectangular site of Halfway House, and the stream and its riparian banks on both sides that dissects the site provide a natural buffer and restricts

⁷⁹ Submissions #203.2-4

development on this site. We also note the relatively new multi-storey development to the south-west of Halfway House that does not dominate or overshadow the site.

174. Following our site visit, we were not convinced that a 15m development that would be enabled to the north-west and west of Halfway House would have a detrimental effect on the setting or the sunlight hours of Halfway House and its gardens. We have not received any evidence that confirms that significant shading would occur.
175. We agree with Ms Hayes that a down-zoning to 8m is not appropriate in light of the requirements of the NPSUD and that the 15m proposed is appropriate for this area. We recommend no change.
176. Rongotai Investments Limited⁸⁰ considered the Rongotai South MUZ height control limits are inconsistent with the surrounding area and sought to increase the Rongotai South MUZ Height Control A, B, C and D limits to 20m.
177. Ms Hayes noted that:

The height control areas seek to provide a transition to adjoining residential areas and ensure that development does not dominate Lyall Bay (within areas A and C). Additional height in this location is also restricted by the WIAL1 designation¹¹ and the proximity to the Airport Control Tower at 1 George Bolt Street. Any increases in height would need to be supported by an assessment of the impact on the airport operations, which the submitter has not provided. For these reasons, I consider that the heights attributed to Height Control Areas A, B, C and D should remain as notified⁸¹.

178. Mr de Leijer, Rongotai Investment's planner, noted in his evidence⁸² that the reason for providing for a transition to residential development, that Ms Hayes offers, is flawed. He considered that the area for which the submitter sought height increase has no part that adjoins residential development, but is entirely surrounded by Open Space Zone (**OSZ**). This OSZ acts as a buffer between MRZ and MUZ in Mr de Leijer's view.
179. He also noted that the restrictions that the WIAL 1 designation imposes only applies for a small part of the MUZ that is in question. The majority of the area sits outside the RL 55m limit. In his calculation, the worst case scenario for permitted building height, should the submission be accepted, would be RL28m. In his view, there is no impact as a result of WIAL 1.

⁸⁰ Submission #269.1

⁸¹ HS4, Section 42A Report, MUZ, Lisa Hayes, para 209

⁸² HS4, Evidence of Cameron de Leijer on behalf of Rongotai Investments, para 11

180. Ms Hayes also considered the Airport Control Tower a restricting factor. Mr de Leijer remarked that the Control Tower sits at 36.28m above MSL. While he accepted that the Control Tower could potentially be affected by the height increase sought, he was also of the opinion that only the top two storeys of the 9-storey tower are used as a viewing cab. Therefore, he submitted that a building of 20m height would have no effect on the visual outlook from the Control Tower.
181. With regard to the protection of Lyall Bay, it was Mr de Leijer's view that more housing development in this area is of advantage due to its amenities and its connectedness to the City Centre.
182. While we are sympathetic to Mr de Leijer's reasoning regarding the transition and WIAL 1 designation, we are concerned that the effects on the Control Tower operation could be more significant than Mr de Leijer assesses. We have not received any expert evidence that would confirm Mr de Leijer's calculations. The Panel also has reservations about intensification of Lyall Bay above and beyond that is notified. We have no evidence that additional capacity is required in Lyall Bay.
183. We therefore agree with Ms Hayes' recommendation to retain the height limits as notified, and to reject the submission.
184. FENZ⁸³ supported the standard in part, but sought an exemption for hose drying towers associated with emergency service facilities in order to appropriately provide for the operational requirements of FENZ. These structures can be around 12 to 15 m in height.
185. Ms Hayes considered that 9m for emergency service facilities, as well as 15m for a hose drying tower would be Permitted Activities under MUZ-S1, except within Height Control Area 1.
186. We note that this request has been made for most zones and the respective Reporting Officers have considered a change of this Standard unnecessary. It is not onerous to engage in a resource consent process for this matter, bearing in mind the limited times that resource consent would be required for a hose drying tower in any case.

⁸³ Submissions #273.290-291

187. Consistent with other zones, we agree with that reasoning and recommend rejection of this submission point.
188. Kāinga Ora, opposed by GWRC, supported by Polish Association in New Zealand Incorporated⁸⁴, and Rongotai Investments Limited, opposed by GWRC⁸⁵, supported the standard in part, but sought building heights of at least 22 m in all MUZ areas to provide appropriate levels of density. It also sought the permitted fence height should be increased to 2m.
189. While Mr Rae's evidence⁸⁶, on behalf of Kāinga Ora, provided urban design reasons for a height increase to 22m for some of the areas such as Kilbirnie and Miramar, no evidence was provided as to why all MUZ should generally be covered by a single maximum height of 22m.
190. This submission is also in contrast with the evidence of Kāinga Ora's planning expert, Mr Heale, who requested an 18m height for the MUZ at Tawa Junction and Takapu Island⁸⁷.
191. It seems clear to us, that at least Mr Heale considered that site specific height limits are appropriate, instead of a blanket limit of 22m. We consider the reasoning of Ms Hayes to be logical and appropriate, to allow for contextual differences within the city in relation to the locations of the MUZ.
192. Ms Hayes recommended these submission points be rejected, because the height limits were based on the specific contexts of the sites, and a blanket increase of a minimum of 22m was therefore not appropriate in her view. She also noted that while this would enable a significant increase in capacity, this is not necessary, and in any case MUZ-P2 enables additional height where residential development is included through a resource consent process.
193. As noted above, we agree with Ms Hayes that additional capacity is not required and adapting the height limits to their specific context will better provide for a well-functioning urban environment. Therefore, we recommend rejection of these submission points.

⁸⁴ Submissions #391.635, #391.636, Further Submissions #84.44, #88.1

⁸⁵ Further Submissions #92.1, #84.45

⁸⁶ HS4, Statement of Evidence Nicholas Rae on behalf of Kāinga Ora, Urban Design

⁸⁷ HS4, Statement of Evidence Matt Heale on behalf of Kāinga Ora, Planning, para 18.5(f)

194. Regarding the increase in fence height that was sought by Kāinga Ora, we agree with Ms Hayes' reasoning that the 1.8m height is consistently applied throughout the CMUZ, and for consistency, we recommend retaining this height here as well.

MUZ-S2 – Maximum height for the purposes of MUZ-R16.2

195. We acknowledge that Restaurant Brands Limited and Investore⁸⁸ supported MUZ-S2 and sought it be retained as notified.
196. We also acknowledge that Tawa Business Group and Wakefield Property Holdings Ltd⁸⁹ sought that MUZ-S2 is retained as notified so that the Tawa Junction Height control remains at 22 m.
197. Taranaki Whānui⁹⁰, opposed by Laurence Harger and Ingrid Kölle, Mary Varnham and Paul O'Regan, and Buy Back the Bay⁹¹, considered that a height of 27m is appropriate for Shelly Bay Taikuru, because it is the maximum height of an existing resource consent (SR No. 368659) and aligns with the 'Shelly Bay Masterplan' submitted with this application. The submitter sought that in addition to amending the extent of the zoning of Shelly Bay Taikuru, the height control area where the extended zone boundary applies should be amended to 27m as well.
198. We addressed Taranaki Whānui's submission in relation to general submissions relating to MUZ above (paragraph 84). We are of up the view that split-zoning in this location is appropriate, contrary to Ms Hayes' view, as we consider the highly visible hillside behind the consented development is more appropriately zoned OSZ.
199. Ms Hayes considered that the requested height increase to 27m for the rezoned part of the land should be rejected, on the basis that no planning evidence and Section 32 analysis in support was provided by the submitter. She recommended, following her recommendation regarding the zone extension, that the entirety of the area should sit within the same Height Control Area (being Height Control Area 1 for MUZ-S1 and Height Control Area 7 for MUZ-S2). This would result in a 12m permitted height to the zone, with 27m available where residential development is provided (subject to resource consent for a Restricted Discretionary activity).

⁸⁸ Submissions #349.142, #405.86

⁸⁹ Submissions #107.20, #108.2

⁹⁰ Submission #389.96

⁹¹ Further Submissions #2.11, #40.11, #79.53

200. We have not received any evidence from the submitter to the contrary. However, based on our recommendation to reject the rezoning, it follows that we also recommend retaining the heights as they were notified.
201. Halfway House Heritage Gardeners⁹² opposed the inclusion of Glenside in MUZ-S2, noting this appears to be a mistake, as the height limit is 15 metres on the ePlan maps.
202. As we noted for MUZ-S1, the 15m height limit is carried over from the ODP. It seems to us that the submitter is mistaken to believe that an 8m height currently applies. In any event, consistent with our previous view, we recommend rejection of a down-zoning to 8m for Glenside.
203. Rongotai Investments Limited⁹³ considered the Rongotai South Mixed Use Zone Height Control limits to be inconsistent with the surrounding area, and sought that the Rongotai South Mixed Use Zone Height Control A, B, C and D be increased to 20m.
204. We discussed the height limits for this area above in relation to MUZ-S1. We have taken into account the evidence provided by Mr de Leijer, and note here as well, that we have concerns regarding the operation of the Airport Control Tower, and with the resulting further intensification of Lyall Bay. Consistent with our recommendations for MUZ-S1, we recommend no changes based on this submission.
205. Kāinga Ora⁹⁴ opposed MUZ-S2 and sought a single maximum height standard of 22m apply to the zone through MUZ-S1, resulting in the deletion of MUZ-S2.
206. Ms Hayes considered that :

MUZ-S2 provides for additional building height for residential development and sets out the matters that developers and planners need to take int [sic] account when the height limits at MUZ-S1 are exceeded. Noting that I have recommended the blanket height requested by Kāinga Ora in relation to MUZ-S1 is not adopted into the District Plan, the retention of this standard enables the additional building height that they seek to achieve⁹⁵.

⁹² Submissions #203.5-7

⁹³ Submission #269.2

⁹⁴ Submission #391.637

⁹⁵ HS4, Section 42A Report, MUZ, Lisa Hayes, para 226

207. We agree with Ms Hayes, on the basis that we recommend rejection of a blanket height limit for the MUZ (MUZ-S1). We recommend this submission point be rejected.
208. Through her evidence in reply, Ms Hayes did recommend that MUZ-S2 be amended by having all of the Rongotai South Mixed Use Zones A, B, C and D all come under Height Control Area 3 (renumbered 2) which has a limit of 19m, instead of having different height limits apply. We agree this would be an appropriate amendment.
209. Ms Hayes also identified an error for Height Control Area 4 that wrongly includes 'Tawa: Redwood Avenue', that does not exist in the PDP as a MUZ. We agree with her recommendation to delete this reference as a minor change.

MUZ-S3 – Height in relation to boundary

210. We acknowledge that Restaurant Brands Limited⁹⁶ supported MUZ-S3 and sought that it is retained as notified.
211. Halfway House Heritage Gardeners⁹⁷ considered that a recession plane standard to sites adjoining scheduled heritage will avoid the adverse effects of visual dominance to some extent. However, the submitter sought to amend MUZ-S3 to 3 metres and 45 degrees for 236 Middleton Road and 238 Middleton Road.
212. Ms Hayes noted that while a recession plane standard would address the submitter's concern, no standard is included in MUZ-S3 relating to adjoining heritage buildings. She recommended including an additional line in the table to accommodate scheduled heritage buildings, however, instead of the 3m and 45 degrees angle requested, she proposed, in line with the standard for Open Space Zone, that 5m and 60 degrees would be appropriate.
213. The Panel agrees with Ms Hayes' rationale and recommendations.
214. FENZ⁹⁸ supported the standard in part, but sought that it is amended to provide an exemption for emergency facilities and associated hose-drying towers

⁹⁶ Submission #349.143

⁹⁷ Submission #203.8

⁹⁸ Submission #273.292-293

215. We addressed FENZ's submission point in relation to MUZ-S1 above, and consistent with that recommendation, we recommend this submission point be rejected also.
216. Kāinga Ora⁹⁹ supported MUZ-S3 in part, but considered that amendments were needed to align with the changes they sought in relation to MUZ-S1 and MUZ-S2.
217. Ms Hayes noted that Kāinga Ora had not provided any details or planning analysis in respect to the changes they had requested.
218. Given that we recommended above in relation to MUZ-S1 and MUZ-S2 that the submission for a blanket height limit in the MUZ not be accepted, no consequential changes to MUZ-S3 are required, and we recommend that the submission points are rejected.

MUZ-S4 – Minimum ground floor height

219. McDonald's¹⁰⁰ considered the standards on minimum building height and minimum ground floor height are unnecessary and would more appropriately sit within the Design Guides and/or as Matters of Discretion. The submitter sought this standard is deleted in its entirety, as did Foodstuffs¹⁰¹.
220. Restaurant Brands Limited, supported by Foodstuffs¹⁰², also sought that this standard is deleted. The submitter opposed minimum floor-to-ceiling heights for new development.
221. Mr Arbuthnot, planner for Restaurant Brands Limited, suggested in his evidence¹⁰³ that it is not appropriate for every building within the CMUZ to be adaptable to a wide variety of uses over time, as this would not provide for activities that require a specific building design. He considered that the minimum ground floor standard has the potential to increase construction costs, result in inefficient building design, and result in businesses to seeking locations outside of the district. While adaptability might be a long-term advantage, he considered that it could disincentivise specific types of development if the extra height is not required. In his opinion, the standard should focus to provide adaptable buildings where it is likely that there will be a higher turnover of activities within the ground floor of buildings;

⁹⁹ Submissions #391.638-639

¹⁰⁰ Submission #274.42

¹⁰¹ Submission #476.38

¹⁰² Submission #349.144, Further Submission #23.50

¹⁰³ HS4, Statement of Evidence Mark Nicholas Arbuthnot for Restaurant Brands Ltd, paras 6.7-6.8

namely the streets subject to active frontage and/or verandah coverage requirements.

222. Ms Hayes considered that:

...this standard is appropriate as it facilitates high quality design outcomes. For example, the higher ground floor height provides for a better street frontage as it provides a 'base' to a building. It assists to enhance the quality of the interior by providing increased light, and ensures the building can be adapted to accommodate different uses over time. Additionally, retail and commercial uses require higher floor heights for services, meaning that not requiring this height will limit different uses that can occur there (specifically in terms of mechanical ventilation)¹⁰⁴.

223. In summary, we agree with Ms Hayes, and accept her reasons as outlined above. We note this differs from our recommendations for the LCZ and NCZ, as we consider the type of development expected in the MUZ (ground level commercial, upper levels residential) differs from that in the LCZ and NCZ where a mix of building types and use is anticipated.

MUZ-S5 – Windows adjacent to residential zones

224. We acknowledge that Restaurant Brands Limited¹⁰⁵ supported MUZ-S5 and sought that this is retained as notified.

225. Kāinga Ora¹⁰⁶ supported MUZ-S5 in part and sought to exclude the provisions from applying to windows in residential units in the MUZ, as the effects are comparable to those experienced between residential units in residential zones.

226. Ms Hayes agreed with Kāinga Ora, that an exemption for residential units is appropriate, because effects between residential units located adjacent to one another are the same, regardless of the zone they are in. In addition, she noted that to have opaque windows would reduce the level of amenity, including access to sunlight/daylight and outlook for the occupants.

227. We agree with Kāinga Ora's and Ms Hayes' logic, and recommend qualifying the privacy glazing requirement in this standard by including the words "*Except for windows in a residential unit*".

¹⁰⁴ HS4, Section 42A Report, MUZ, Lisa Hayes, para 243

¹⁰⁵ Submission #349.145

¹⁰⁶ Submissions #391.640-641

MUZ-S6 – Maximum gross floor area of buildings

228. Restaurant Brands Limited¹⁰⁷ supported MUZ-S6 and sought that this is retained as notified. We acknowledge this submission.
229. Woolworths, supported by Foodstuffs¹⁰⁸, considered MUZ-S6 should be amended to exclude supermarkets from a maximum GFA of 500m², and allow a maximum of 1500m² for supermarkets instead.
230. Ms Hayes pointed out that MUZ-R12 relates to supermarket activities and a reference to supermarkets in MUZ-S6 is not required. In her view, MUZ-S6 applies when a building is constructed, altered, or added to and is not intended to apply to supermarkets. She recommends rejecting the submission, as do we.
231. Kāinga Ora¹⁰⁹ opposed MUZ-S6 as it constrains development and design flexibility, and it is not clear what positive outcome it achieves. The submitter considered MUZ-R11 and MUZ-R12 provide limits for integrated retail activity and supermarket floor areas and so the purpose of this rule is unclear and unnecessarily constrains those developments. The submitter sought this standard is deleted.
232. VicLabour¹¹⁰ considered MUZ-S6 may not be reasonable and should be extended or removed in order to support greater density and further development in these areas. The submitter noted that cost efficiencies can occur with larger scale developments, and that these can provide for a range of housing types, as well as more shared spaces and facilities. The submitter considered MUZ-S6 should be deleted or the permitted GFA increased. We note that we did not hear from Vic Labour in Hearing Stream 4 or received expert evidence to substantiate their claims.
233. Willis Bond¹¹¹ also considers MUZ-S6 should be deleted or the GFA increased on the basis that 500m² is a very low GFA and will hinder development.
234. Mr Heale stated in his evidence¹¹² that a GFA of 500m² does not align with the Objectives and Policies of the MUZ. He considered that the MUZ also anticipates residential activities above ground floor, which will necessitate a greater GFA, if this

¹⁰⁷ Submission #349.146

¹⁰⁸ Submission #359.74, Further Submission #23.17

¹⁰⁹ Submission #391.642

¹¹⁰ Submissions #414.38-40

¹¹¹ Submissions#416.104-105

¹¹² HS4, Statement of Evidence Matt Heale for Kainga Ora, para 19.4

is likely to occur. Mr Rae seemed to concur that a typical building in this zone would exceed this limit.

235. In Ms Hayes' opinion MRZ-S6 is necessary to ensure that there is a mix of densities within the MUZ, and that very large buildings do not dominate the zone, but rather a mixture of densities is achieved. She noted that the standard does not prevent larger floor area buildings from occurring within the MUZ, however these require resource consent.
236. The Panel concurs with Ms Hayes, that a greater mix of uses and densities is sought for the MUZ and that should larger floor areas be required on a case-by-case basis, this can be controlled through a resource consent process. Therefore, we recommend no changes to the standard.

MUZ-S7 – Verandah control

237. Restaurant Brands Limited¹¹³ seeks that MUZ-S7 is retained as notified, which we acknowledge.
238. As for most other zones, Z Energy Limited¹¹⁴ sought that MUZ-S7 should be amended to provide an exemption where there is a functional requirement for a building not to contain a verandah. They offered two options regarding the wording, to either note that the standard does not apply to service stations, or a qualifier as to functional requirements.
239. Ms Hayes accepted the submission, and so do we. We note that there will be circumstances where there are functional and operational requirements that mean the construction of a verandah along the frontage of a site is unnecessary or impractical. Regarding its wording options, Ms Hayes considered that an exemption for service stations was acceptable given that the nature of service stations is to have a building set back from the road (and sometimes in fact, no building), with an open forecourt¹¹⁵. It follows that we also adopt the Reporting Officer's Section 32AA evaluation.

¹¹³ Submission #349.147

¹¹⁴ Submissions #361.64-66

¹¹⁵ HS4, Section 42A Report, MUZ, Lisa Hayes, para 265

MUZ-S8 – Minimum residential unit size

240. Kāinga Ora¹¹⁶ supported MUZ-S8 in part, but sought to remove the minimum standard for 2+ bedroom units, to enable greater design flexibility and decrease the minimum floor area for studio units.
241. We refer to our recommendation for the equivalent standard in the MCZ, where we have recommended rejection of the same relief, and that the minimum residential unit sizes are retained as notified for reasons set out there. We have the same view in this context. We note that this also aligns with our recommendations for residential zones.
242. Willis Bond¹¹⁷ opposed MUZ-S8 on the basis that they consider it restrictive to provide for affordable housing choices, and that it does not align with MUZ-P1. The submitter sought that the standard is deleted, or the standard should clearly identify that hotel accommodation, student accommodation and other similar accommodation types are distinct from residential unit sizes. We note that Ms Luxford did not pursue this point in the hearing, nor did Mr Aburn provide any comment on this matter in his evidence.
243. Regarding Willis Bond's submission Ms Hayes considered:

Likewise, I disagree with Willis Bond [416.106, 416.107] that the standard should be deleted in its entirety. I recommend their request for an exemption for other accommodation types such as hotel accommodation and student accommodation is rejected, on the basis that students and other long term residents should be provided with quality living space to achieve the benefits described at paragraph 331 of Part 2 (Metropolitan Centre Zone). I am less concerned about short-stay hotel accommodation; however, note that failure to meet the standard only means that an assessment of the unit size will be made at the resource consent stage. The use of the building will be taken into account and a smaller unit size may be deemed appropriate for such uses¹¹⁸.

244. We concur both with Ms Hayes' reasoning and with her recommendations.

MUZ-S9 – Outdoor living space for residential units

245. We acknowledge that Kāinga Ora¹¹⁹ supported MUZ-S9 and sought that it is retained as notified.

¹¹⁶ Submissions #391.643-644

¹¹⁷ Submissions #416.106-107

¹¹⁸ HS4, Section 42A Report, MUZ, Lisa Hayes, para272

¹¹⁹ Submission #391.645

246. RVA¹²⁰ opposed MUZ-S9 and sought amendment to exclude retirement villages.
247. Ms Hayes disagreed with RVA and was of the opinion that if the standard is not met a resource consent for this non-compliance can be obtained, subject to the developer showing that the occupants will be provided suitable on-site amenity for their specific needs. We agree with her recommendation to reject this submission point and we and note that this is in alignment with our recommendations for other CMUZs and residential zones.
248. Willis Bond¹²¹ opposed MUZ-S9 for the same reasons as their opposition for MUZ-S8. The submitter sought here as well, that MUZ-S9 is deleted in its entirety.
249. We concur with Ms Hayes who recommended that the submission should be rejected, on the basis that this standard provides for on-site amenity for residential occupants of sites in the MUZ. We consider that it is particularly relevant to provide for these spaces in a zone that provides for mixed use, including yard-based and light industrial activities, and provides a different context to that of a purely residential zone.

MUZ-S10 – Minimum outlook space for multi-unit housing

250. The Summary of Submissions includes an inferred submission point stating that Willis Bond¹²² seeks that MUZ-S10 is deleted.
251. Ms Hayes noted that for the same reasons as detailed at paragraph 350 of Part 2 (Metropolitan Centre Zone) she recommended that the minimum outlook space standard is retained within the MUZ. While it is not clear if Willis Bond seeks a change or not, she recommended that this standard is retained in the MUZ for consistency with the other CMUZ, and we agree.

MUZ-S11 – Lyall Bay Parade frontage control

252. We acknowledge that Yvonne Weeber¹²³ supported MUZ-S11 and sought that it is retained as notified.

¹²⁰ Submission #350.268

¹²¹ Submission #416.108

¹²² Submission #416.109

¹²³ Submission #340.105

253. Willis Bond¹²⁴ considered there should be more flexibility to breach the standard where the overall design has a positive effect on the streetscape. The submitter sought to include the words ‘or otherwise enhances the streetscape’. Again we note this matter was not pursued during the hearing.
254. Ms Hayes disagreed with Willis Bond and considered that the addition of such flexibility would create ambiguity for the design standard. In her view, the purpose of the standard is to ensure the consistent alignment of buildings along this frontage is maintained.
255. We agree with Ms Hayes and recommend rejecting Willis Bond’s submission point.

Proposed Additional Mixed Use Zone Provisions

256. Submissions from RVA¹²⁵ sought a new policy that support retirement villages within the MUZ. In addition, they considered that, currently retirement villages would be a Permitted or Discretionary activity under the ‘residential activities’ rule of the MUZ. They sought amendment to include retirement villages as a Permitted activity only.
257. We refer to our discussion above for MUZ-R16 with regard to RVA’s request to include a separate rule framework for retirement villages. For the reasons stated above, and contrary to the recommendations for residential zones, we are not convinced that there is a need for such framework. We recommend rejecting this submission point.
258. However, the Reporting Officer for the CCZ agreed to recommend a policy supporting retirement villages in the CCZ, while the reporting officer for submissions on the MCZ, LCZ and NCZ also recommended a similar enabling policy to that in the HRZ. The Reporting Officer also recommended incorporating a new rule to provide for retirement villages in the Centres zones as a Permitted Activity, and as a Discretionary Activity in the MUZ and COMZ, the latter to align with the approach to managing development in the COMZ and MUZ.
259. We agree with her recommendation to include a new rule MUZ-R14 to that effect. We note that consecutive Rules will require renumbering.
260. FENZ¹²⁶ sought a new policy that focuses on quality design outcomes within the MUZ specifically, as per the other CMUZ within the PDP. The submitter sought that,

¹²⁴ Submission #416.110

¹²⁵ Submissions #350.259-261

¹²⁶ Submission #273.279

in accordance with the relief they seek with respect to the equivalent CMUZ policies, the MUZ policy should include reference to accessibility for emergency service vehicles.

261. Ms Hayes considered that Policy MUZ-P6 Design of New Development, already covers the standard of design required, and this extends to include the diverse context of the MUZ. In her view, this could cover the requirement for accessibility of emergency service vehicles. While we accept Ms Hayes' recommendation to reject this submission point, we also note that access for emergency vehicles is covered through the Building Act.
262. Dept of Corrections¹²⁷ requested that a new permitted activity rule applying to "supported residential care activities" is added if the definition of "supported residential care activity" is retained.
263. Mr McCutcheon, the Reporting Officer for Hearing Stream 1, addressed the submission points from Dept of Corrections in his Right of Reply for Hearing Stream 1¹²⁸, where he recommended that the definition of 'supported residential care activity' be removed from the PDP. The Panel agrees with this recommendation.
264. On the basis of that discussion, we consider that a new provision is not required and recommend rejecting the submission point from Dept of Corrections.
265. Kāinga Ora¹²⁹ considered it appropriate that a new rule be added permitting industrial activities, except heavy industrial activities, which should require resource consent as a Non-Complying Activity, to give effect to MUZ-P2 and MUZ-P4. Kāinga Ora sought the addition of a new 'Industrial activities' rule in the MUZ. The submitter also requested to include a notification status of 'public notification' for non-complying activities.
266. We note that this submission point was not opposed, and Ms Hayes recommended that this rule be added as detailed in her Summary of Recommendations¹³⁰ as MUZ-R20. While MUZ-P4 seeks to avoid heavy industrial activities in the MUZ, smaller scale industrial activities may be appropriate, and at present there is no rule framework to support these. Ms Hayes recommended a new rule for industrial

¹²⁷ Submission #240.43

¹²⁸ HS1, Right of Reply Adam McCutcheon for WCC

¹²⁹ Submission #391.613

¹³⁰ HS4, Section 42A Report, MUZ, Lisa Hayes, para 306

activities that would have heavy industry a non-complying activity. We agree with her recommendation and adopt her Section 32AA evaluation.

267. KiwiRail, opposed by Kāinga Ora¹³¹, considered that building setbacks are essential to address significant safety hazards associated with the operational rail corridor. Parts of the KiwiRail network adjoin commercial and MUZ that do not currently include provision for boundary setbacks for buildings and structures. The submitter sought the addition of a new standard.
268. This matter was part of the discussion in all zones, and we note here that Mr Patterson recommended a 1.5 metre setback in his Section 42A Report for the residential zones, with which the Panel agreed. We will not repeat the reasoning for this here.
269. Following this recommendation, Ms Hayes recommended a new standard MUZ-S12 requiring a 1.5 metre setback from the rail corridor for all buildings and structures in the MUZ, with a corresponding Matter of Discretion to be added to MUZ-R16. Consequently, she recommended that the KiwiRail submission point is accepted in part, and the further submission is rejected.
270. We concur with Ms Hayes reasoning and recommendation, and adopt her Section 32AA evaluation.

2.6 New MUZ Precincts

271. We note that we have recommended two new Precincts within the MUZ as follows:
- a. MUZ-PREC01: Curtis Street, to replace the COMZ zoning of this site, as recommended in the first part of this report (4D); and
 - b. MUZ-PREC02: Adelaide Road, to replace the CCZ zoning of the area between Rugby Street and John Street, as recommended in Report 4B.
272. The recommended provisions for these precincts are incorporated in **Appendix 1** to this report, the amalgamated recommended amendments to the MUZ provisions.

¹³¹ Submission #408.127, Further Submission #89.38

2.7 Minor and Inconsequential Amendments

273. Ms Hayes made various amendments pursuant to Schedule 1, clause 16(2) of the RMA. We agree that those amendments are of minor effect and correct minor errors.
274. Within the Section 42A Report, minor and consequential amendments were identified under the provisions that they related to. For example, within specific provisions, renumbering may have been required with respect matters of discretion, assessment criteria, and the like.
275. We observe in particular that in a number of instances the changes resulted from similar changes recommended across the CMUZ chapters. We note that these changes are recommended so the District Plan reads in an integrated manner.

3. GENERAL INDUSTRIAL ZONE (GIZ)

3.1 Introduction and Overview

276. The Section 42A Report that dealt with the General Industrial Zone (GIZ) was contained within Part 3 – Commercial and Mixed Use Zones (CMUZ) and the Reporting Officer was Ms van Haren-Giles.
277. There are about a dozen GIZs within Wellington City that vary from a couple of larger sites to relatively extensive areas of several blocks of land, which are distinctly of industrial character.
278. The PDP Strategic Objective CEKP-O3 describes the role and function of the Mixed use and industrial areas outside of Centres as:
- a. Complement the hierarchy of Centres;
 - b. Provide for activities that are incompatible with other Centres-based activities; and
 - c. Support large scale industrial and service-based activities that serve the needs of the City and wider region.
279. The key issues addressed in this report relate to the following:
- a. Rezoning of sites to Mixed Use Zone (MUZ);
 - b. The directive to avoid reverse sensitivity effects;
 - c. The policy and rule framework for gyms, commercial activities, educational facilities, community corrections activities, and drive-through restaurants; and
 - d. Proposed amendments to the maximum building height and height in relation to boundary standards.
280. Ms van Haren-Giles noted that there were no submissions received in relation to GIZ-R1, GIZ-R2, GIZ-R6 and GIZ-R7. We recommend confirming these rules as notified.
281. The following provisions were all supported in submissions, which sought to retain the provisions as notified, and were not opposed. They included: GIZ-O1, GIZ-O4, GIZ-O5, GIZ-P2, GIZ-P5, GIZ-P6, GIZ-R3, GIZ-R8, and GIZ-R10. No changes to these provisions are recommended.

3.2 General Submissions

282. The general submissions Ms van Haren-Giles assessed included matters relating to definitions, zoning, and general points to the chapter as a whole.
283. Oyster Management¹³² sought to include a new definition in the chapter for 'indoor exercise facilities' to clarify that gyms are a permitted activity. Oyster Management is currently operating a gym on a site in the GIZ.
284. Ms van Haren-Giles noted that, as an existing facility, the gym has existing use rights. In addition, any new facility could be considered as Permitted on the basis that it is 'service retail' (GIZ-R4) or as a Discretionary Activity (GIZ-R6) without a definition. For this reason, the Reporting Officer recommended that no changes to the definitions are required. We agree with her reasoning and recommendation.
285. With regard to rezoning of areas, Miriam Moore¹³³ sought to change the zoning of the Main Road Tawa Industrial Area from GIZ to MUZ. In her view, given the area's proximity to the Redwood Train Station and to several schools, the rezoning to MUZ would revitalise the neighbourhood and allow for sustainable living.
286. In Ms van Haren-Giles' view, land use in this area aligns with the GIZ description, showing a strong presence of industrial activity. She noted that industrial land is in high demand according to the latest expert projections (Sense Partners), particularly for light industrial activities. She considered that while Grenada North also provides industrial land, as Ms Moore pointed out, the retention of the GIZ in this area of Tawa will provide for the right mix of activities to achieve a well-functioning urban environment. For this reason, she recommended retaining the GIZ in this area of Tawa. We concur with her reasoning, and recommend Ms Moore's submission be rejected.
287. The submission from Shelly Bay Road Ltd¹³⁴ sought that the property at 3 Shelly Bay Road be rezoned from GIZ to MUZ, to allow for residential activity on this site in the future. It noted that the properties opposite are zoned Residential and MUZ.
288. Ms van Haren-Giles responded that the sites opposite are not related to 3 Shelly Bay Road, since they are located on a steep embankment above the subject site. In her view, however, the Miramar/Burnham Wharfs to the southwest provide the more

¹³² Submission #404.4

¹³³ Submission #433.3

¹³⁴ Submissions #342.1, #342.2

relevant context for 3 Shelly Bay Road. She considered the proximity to the wharfs to be crucial, in the commercial context of the wharfs being regionally significant infrastructure, although the site is currently not in CentrePort's ownership. She regarded it as important that industrial zoned land in this location is retained.

289. In its further submission WIAL¹³⁵ recorded that this site is subject to Designation WIAL 1 and that rezoning the site may result in intensification of noise-sensitive activities that may in turn result in reverse sensitivity effects. The site is also covered by the Inner Air Noise Overlay that restricts noise-sensitive activities in the overlay.
290. While we heard from Mr Jamieson for Oyster Management Ltd at the hearing, he did not elaborate on the zoning of this site, so as to provide us with a rationale that would challenge the points made by Ms van Haren-Giles.
291. We see logic in the reasoning of Ms van Haren-Giles and recommend retaining the site within the GIZ.
292. We acknowledge general support from various submitters¹³⁶ for the GIZ as notified.
293. EnviroNZ¹³⁷ supported the GIZ chapter, but emphasised that waste facilities require protection from reverse sensitivity. Ms van Haren-Giles referred to the strategic direction contained in CEKP-O3 and CEKP-O4 to protect land zoned GIZ from incompatible activities and noted that she has recommended amendments to strengthen the reverse sensitivity provisions of the GIZ.
294. Dept of Corrections sought¹³⁸ that Community Corrections Activities should be included in the provisions as they are an important social infrastructure and Ms van Haren-Giles agreed. We come back to this later with regard to potential changes in provisions.
295. GWRC submitted¹³⁹ that the provisions need to have regard to the qualities and characteristics of well-functioning urban environments. Ms van Haren-Giles responded that, in her view, this is the case and no change to the provisions is necessary. We agree with her.

¹³⁵ Further Submission #36.245

¹³⁶ Submissions #201.38, #370.406, #373.31

¹³⁷ Submission #373.31

¹³⁸ Submission #240.62

¹³⁹ Submissions #351.280, #351.281

3.3 GIZ PRECO1 Miramar/Burnham Wharf Precinct

296. CentrePort¹⁴⁰ sought that, as an alternative to including the Miramar and Burnham Wharves in the definition of 'Regionally Significant Infrastructure', recognition of Miramar and Burnham Wharves location in the Coastal Marine Area and Burnham Wharf's use for operational port activities be referenced in the introduction of the Miramar/Burnham Wharf Precinct. CentrePort did not appear in the Stream 1 hearing considering definitions, and we did not recommend acceptance of its relief in Report 1A (Section 5.5).
297. Ms van Haren-Giles noted that the Miramar and Burnham Wharves are categorised as regionally significant infrastructure in the RPS because they are part of the Wellington Harbour Commercial Port Area. Based on this, Ms van Haren-Giles agreed that recognition of this fact is an appropriate addition to the introduction of the Precinct. We agree with her recommendation and the wording she proposed in GIZ-PRECO1.

3.4 Submissions on GIZ Provisions

Objectives

298. We acknowledge the support from various submitters to retain GIZ-O1 and GIZ-O2¹⁴¹, GIZ-O3¹⁴², GIZ-O4¹⁴³ and GIZ-O5¹⁴⁴ as notified.

GIZ-O2 – Sensitive Activities

299. Regarding GIZ-O2: Sensitive Activities, EnviroNZ¹⁴⁵ sought to amend the objective to ensure that reverse sensitivity effects are avoided. Ms van Haren-Giles agreed with this submission for the reason that it is important to protect industrial land from incompatible use. She noted that industrial land is a scarce resource with a strong demand. In her view, the amalgamation and amendment of GIZ-O2 and GIZ-O3 would be the most appropriate way to achieve a broader objective that includes reverse sensitivity matters.

¹⁴⁰ Submission #402.145

¹⁴¹ Submissions #349.204, #349.205

¹⁴² Submissions #274.71, #349.206

¹⁴³ Submissions #273.326, #349.207

¹⁴⁴ Submission #349.208

¹⁴⁵ Submissions #349.32, #349.33

GIZ-O3 – Commercial activities

300. For GIZ-O3: Commercial Activities, Woolworths, supported by Foodstuffs¹⁴⁶, sought to amend the objective to include matters of reverse sensitivity, as well as the consideration of operational and functional needs, recognising the hierarchy of the Centres.
301. As Ms van Haren-Giles noted in relation to GIZ-O2, she agreed that matters of reverse sensitivity should be considered, and recommended this part of Woolworths' submission be accepted. However, she disagreed that commercial activities have operational and functional needs as defined, and noted that the Centres hierarchy provides for commercial activities, such as supermarkets, where this is appropriate.
302. Based on this, she recommended an alternative wording for an amalgamated objective as set out in her Section 42A Report.
303. We asked Ms van Haren-Giles whether the combination of GIZ-O2 and GIZ-O3 would conflate two different issues: the management of reverse sensitivity and the avoidance of commercial activity in the GIZ, in light of the Centres hierarchy. We were also concerned that substantive content of the notified objectives would be lost in the process of amalgamating these objectives.
304. In her Reply, Ms van Haren-Giles referred us to the support of Ms Rosser, who appeared for EnviroNZ, regarding the amalgamation. In addition, she provided us with a range of positive outcomes achieved through the amalgamation of the objectives.
305. However, she reviewed her position and found that indeed some of the content of the notified objectives would be lost. She therefore recommended that instead of amalgamating the two objectives, both be retained, and a new objective added to cover the protection of the GIZ.
306. We concur with her that both objectives should be retained, and with the outcome of adding a new objective based on her recommended wording in her Reply that will provide relief for Woolworths and EnviroNZ, at least in part.

¹⁴⁶ Submission #359.91, Further Submission #23.26

Policies

307. We acknowledge the support for the retention of GIZ-P1, GIZ-P2, GIZ-P3¹⁴⁷, GIZ-P4¹⁴⁸, GIZ-P5 and GIZ-P6¹⁴⁹ as notified.

GIZ-P1 – Enabled activities

308. Dept of Corrections sought¹⁵⁰ to amend GIZ-P1: Enabled Activities to include community Dept of Corrections' activities as permitted activities. Ms van Haren-Giles noted that while she agreed that community Dept of Corrections' activities are important social infrastructure, and had considered adding a new rule requested by Dept of Corrections, she disagreed that any changes to the policy were required, since the primary purpose of the GIZ is to enable industrial activities. We agree with her reasoning and recommend rejecting Dept of Corrections' submission in relation to GIZ-P1.

GIZ-P3 – Sensitive activities

309. In relation to GIZ-P3: Sensitive Activities, EnviroNZ¹⁵¹ considered that the policy is not specific enough to dissuade sensitive activities to take place in the GIZ. Ms van Haren-Giles noted that the policy would profit from being strengthened in that respect and provided alternative wording that added reference to the effects of odour and dust to noise effects, to align with the introduction of the chapter.
310. The Panel agrees that the range of nuisance effects in an industrial area can be greater than just noise, taking into particular account the effects that waste management may create. We are in agreement with the Reporting Officer's recommendations.

GIZ-P4 – Commercial activities

311. With regard to GIZ-P4, Restaurant Brands¹⁵² sought to include drive-through facilities as a permitted activity. We note that in its submission, McDonald's sought

¹⁴⁷ Submission #349.209

¹⁴⁸ Submission #274.72

¹⁴⁹ Submissions #349.213, #349.214, Further Submissions #45.3, #43.4

¹⁵⁰ Submissions #240.63, #240.64, #240.65

¹⁵¹ Submissions #373.34, #373.35

¹⁵² Submission #349.212

to retain this policy as notified¹⁵³, but indicated in its further submission¹⁵⁴ support for the changes proposed by Restaurant Brands.

312. In line with its submission on GIZ-O3 that we discuss above in paragraphs 303 to 306, Woolworths, supported by Foodstuffs¹⁵⁵, sought to amend GIZ-P4 regarding reverse sensitivity, functional and operational needs and the Centres hierarchy, providing some alternative wording.
313. Foodstuffs reasoned that GIZ-O3.2 refers to commercial activities locating in the GIZ that are not adverse to the hierarchy of the Centres, but the full range of such activities is not reflected in GIZ-P4, and should be added.
314. In her Section 42A Report, Ms van Haren-Giles explained that drive-through facilities are compatible with the GIZ, based on the definition of 'Service Retail' which would include takeaway food outlets.
315. We discussed the definition of Service Retail with Ms van Haren-Giles during the hearing, noting that some of the services included are outdated, such as video and DVD hire. The Panel put the question to Ms van Haren-Giles whether, in light of the NPSUD, the definition of Service Retail requires a review; in particular, whether large footprint takeaway outlets should be permitted in the GIZ.
316. In her Reply, Ms van Haren-Giles agreed that the definition has flaws, insofar as it is outdated, and has limited application throughout the Plan. She confirmed her view that, since the definition includes the sale of food and beverages, drive-through facilities are compatible with the amenity and effects anticipated in the GIZ. However, when she reflected on the requirements under the NPSUD, she noted that industrial zoned land is scarce and drive-through facilities require a large site.
317. She debated several options, including deleting Service Retail from the policy and relying on GIZ-R7 for 'all other activities' to be a discretionary activity, and providing a list of permitted activities in GIZ-R4¹⁵⁶, in addition to introducing a new rule, or amending the definition. Her preferred option was to recommend the amendment of the definition for Service Retail, by deleting video and DVD hire, and adding an exclusion for drive-through restaurants on the basis of the demand of industrial land. Ms van Haren-Giles considered this amendment was an appropriate

¹⁵³ Submission #274.72

¹⁵⁴ Further Submission #45.2

¹⁵⁵ Submission #359.92, Further Submission #23.27

¹⁵⁶ Ms van Haren-Giles referred to GIZ-R5 in her Reply at 23 (a)(i), which for the avoidance of confusion we note is the new numbering, not the notified numbering.

response to evidence indicating projected demand for industrial land, and the NPSUD in terms of providing sufficient development capacity to meet expected demand for industrial land.

318. As she noted, this recommendation would change her recommendations on McDonald's and Restaurant Brands' submissions from accept in part to reject.
319. The deletion of 'video and DVD hire' is a minor amendment as it is unlikely to have any substantive effect given this activity has all but vanished. Based on the definition of the term, the provision for Service Retail activities in the GIZ is intended to enable for small scale commercial activities that service local retail needs. Drive-through restaurants do not sit comfortably within that purpose, as they are usually sited on main arterial roads, drawing on a wide customer catchment. They also require larger sites than conventional takeaway food outlets.
320. Given the limited supply of industrial land within the City, we are satisfied that excluding drive-through restaurants as a permitted activity in the GIZ better aligns with the purpose of this zone; in particular, Objective GIZ-O3 which seeks that commercial activities are not established in the General Industrial Zone unless they are ancillary to industrial activities, or are of a nature and scale that does not undermine the hierarchy of Centres.
321. Accordingly, we agree with the Reporting Officer's recommendations, because it better enables the PDP to meet the requirements of the NPSUD with regard to the need to supply sufficient industrially zoned land in the City. We are comfortable in exercising our 'out-of-scope' recommendatory powers under Clause 99(2)(b) of RMA Schedule 1 based on the evidence before us on this particular matter.
322. We note McDonald's and Restaurant Brands retain the ability to seek resource consent as a discretionary activity for a drive-through restaurant in this zone.

Rules

323. Three submissions sought to include new rules to the GIZ chapter. Dept of Corrections¹⁵⁷ sought a new rule including community Dept of Corrections' activities as a permitted activity. MoE¹⁵⁸ sought to include educational facilities as a

¹⁵⁷ Submission #230.63

¹⁵⁸ Submission #400.146

discretionary activity. Oyster Management¹⁵⁹ sought provision in the GIZ for indoor exercise facilities.

324. In relation to the Dept of Corrections' submission, Ms van Haren-Giles considered that community Dept of Corrections' activities are essential social infrastructure, and community work components often require large sites for yard-based activities, equipment or vehicle storage. She recommended the inclusion of the Dept of Corrections proposed new rule. We agree with that outcome.
325. Considering the MoE submission, Ms van Haren-Giles agreed that some forms of training facilities may need to be located in the GIZ, and noted that for this reason, trade and industrial training facilities are already provided for in GIZ-R2. However, education facilities in a broader sense, including schools and child care facilities, are sensitive to adverse effects of industrial activities, and are therefore considered as not appropriate activities in the GIZ, and inconsistent with the purpose of the zone. We see the logic in Ms van Haren-Giles' reasoning, and agree with her recommendation.
326. In regard to Oyster Management's submission, the Reporting Officer referred to her discussion of this matter in relation to indoor exercise facilities (in Section 3.2 and 3.6 of her report), and reiterated that special provisions for indoor exercise facilities are not required. We concur with her findings and recommendation.
327. We now turn to submissions on the rules as notified in the PDP. We acknowledge the support for the retention of GIZ-R3¹⁶⁰, GIZ-R4¹⁶¹, GIZ-R8¹⁶², GIZ-R9¹⁶³, and GIZ-R10¹⁶⁴ as notified.

GIZ-R4 – Commercial activities (now GIZ-R5)

328. Restaurant Brands, supported by McDonald's¹⁶⁵ sought to amend GIZ-R4 to include drive-through restaurants in the list of activities. We discuss the matter of inclusion of drive-through restaurants or otherwise in paragraphs 311 to 322 of our report in relation to GIZ-P4 in which we recommend excluding drive-through restaurants from the definition of Service Retail, thereby making this land use a discretionary activity

¹⁵⁹ Submissions #404.83, #404.84

¹⁶⁰ FENZ [#273.327]; Oyster Management [#404.85]

¹⁶¹ McDonald's [#274.73-74]

¹⁶² FENZ [#273.328]; Restaurant Brands [#349.216]

¹⁶³ FENZ [#273.329]; Restaurant Brands [#349.217]

¹⁶⁴ FENZ [#273.330], Restaurant Brands [#349.218]

¹⁶⁵ Submission #349.215, Further Submission #45.5

in GIZ. For the same reasons, we recommend rejecting Restaurant Brands' submission point on Rule GIZ-R4.

329. Woolworths¹⁶⁶ sought to amend. **GIZ-R4.2 (now GIZ-R5.2)** to change the activity status from non-complying to discretionary. This matter is also discussed in relation to GIZ-P4, where Ms van Haren-Giles noted that commercial activities should be avoided in the GIZ to enable industrial zoned activities and protect industrial land. Following our recommendation above, we recommend rejecting Woolworths' submission point on this rule.

GIZ-R5 – Sensitive activities not ancillary to a permitted activity (now GIZ-R6)

330. In relation to GIZ-R5, MoE¹⁶⁷ sought that educational facilities be excluded from the non-complying rule for sensitive activities. We discuss this matter in paragraph 325 of this report in relation to MoE's submission seeking to include a new rule to provide for educational facilities. We agree with Ms van Haren-Giles that education facilities are sensitive activities and not compatible with an industrial environment, and therefore we also recommend rejecting MoE's submission point.

GIZ-R9 – Demolition or removal of buildings and structures (now GIZ-R10)

331. While GWRC supported Permitted Activity status for the demolition of buildings in GIZ-R9, it sought a provision that requires building waste to be disposed at an approved facility. As Ms van Haren-Giles noted, it sought the same relief with regard to the demolition rules in other zones: for example, refer to our discussion on this point in Report 2A in relation to the MRZ. There we agreed with Mr Patterson, the Reporting Officer for that topic, that the restriction of disposal of waste to specific facilities would be impossible to monitor and impractical to implement. On the basis of this, we recommend the rejection of GWRC's submission point in the GIZ context.

GIZ-R11 – Construction of, or additions and alterations to, buildings and structures (now GIZ-R12)

332. The last rule we consider here is GIZ-R11. While FENZ generally supported the rule, it sought to amend it to ensure that emergency signage and equipment are not obscured by screens for outdoor storage. As an important measure for private and

¹⁶⁶ Submission #359.93

¹⁶⁷ Submissions #400.147, #400.148

public safety, the Reporting Officer accepted FENZ's submission and included its additional wording into the rule. We agree with her recommendation.

Standards

333. As in other zones, KiwiRail¹⁶⁸ sought to include a new standard to the GIZ on the basis of its view that building setbacks are essential to address significant safety hazards associated with the operational rail corridor. It requested a 5m boundary setback from the rail corridor for all buildings and structures in the GIZ.
334. Consistent with our decision and the Reporting Officers' recommendations for other zones, we recommend accepting the request from KiwiRail in part by adopting a 1.5 metre setback as recommended by Ms van Haren-Giles through a new standard, GIZ-S7, Boundary Setbacks, along with a corresponding matter of discretion. This standard would be referenced through Rule GIZ-R11.
335. We acknowledge the support from Restaurant Brands¹⁶⁹ for the retention of the standards GIZ-S1 to GIZ-S6 as notified.

GIZ-S1 – Maximum height of buildings and structures for the purpose of GIZ-R10.1 (now 11.1) and GIZ-PREC01-R1.1

336. Regarding the maximum height of buildings in GIZ-S1, FENZ¹⁷⁰ sought an exemption for hose drying towers associated with emergency services facilities.
337. Ms Van Haren-Giles noted that emergency facilities have a height limit of 9m, and that the 15m requested by FENZ would be within the permitted height limits of most GIZ Height Control Areas, except Height Control Area 1, where 12m applies.
338. In her view a specific standard is not necessary for the very limited situation that it might apply to. In those situations, a resource consent would be required, which in Ms van Haren-Giles' view, would only incur insignificant time delays or additional costs for FENZ. Accordingly, she recommended FENZ's submission be rejected. We agree.
339. Oyster Management¹⁷¹ sought that the height limits in Newlands industrial area be increased from 15m to 20m. In particular, the submitter sought to have the 20m

¹⁶⁸ Submission #408.130

¹⁶⁹ Submissions #349.219, #349.220, #349.221, #349.222, #349.223, #349.224

¹⁷⁰ Submissions #273.333, #273.334

¹⁷¹ Submissions #404.86, #404.87

limit apply to 6 Hurring Place and 12 Newlands Road. Ms van Haren-Giles noted that supporting evidence for the request was not provided.

340. However, she advised that the area features a steep embankment behind the industrial area of Newlands, and therefore an increase in height would not be inappropriate or out of place. While Oyster Management sought an increase to 20m, Ms van Haren-Giles considered an increase to 18m more appropriate to align with the Ngauranga industrial area and the area adjacent to the Kiwi Point Quarry. She noted this would allow for increased efficiency of land use.
341. In the Panel's view, the Reporting Officer's recommendations provide an appropriate balance between increasing the efficiency of land use and the need to avoid development from detracting within its context. In this regard, we accept Oyster Management's submission in part, and recommend categorising 'Newlands' Height Control Area 2 to Height Control Area 3.

GIZ-S2 – Maximum height of buildings and structures for the purpose of GIZ-R10.2 (now GIZ-R11.2) and GIZ-PREC01-R1.2

342. In relation to GIZ-S2, Oyster Management¹⁷² sought that the Newlands GIZ be re-categorised as Height Control Area 5. On the basis of our recommendations for GIZ-S1, it follows that the height controls for GIZ-S2 can likewise be aligned with that of the adjacent industrial areas. We agree with the Reporting Officer, and recommend changing the classification of 'Newlands' Height Control Area 4 to Area 5.

GIZ-S3 – Height in relation to boundary

343. With regard to GIZ-S3, Height in Relation to Boundary, FENZ¹⁷³ again sought an exemption to allow hose drying towers of 15m height to be permitted to provide for their operational needs. We refer to our discussion for GIZ-S1, that, given the very limited application of this issue, a resource consent is not unduly onerous, and we therefore recommend rejecting FENZ's submission point.

¹⁷² Submissions #404.88, #404.89, #404.90

¹⁷³ Submissions #273.335, #273.336

3.5 Minor and Inconsequential Amendments

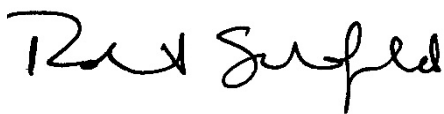
344. Ms van Haren-Giles¹⁷⁴ acknowledged that minor and consequential amendments are required. For example, within specific provisions, renumbering may be required with respect to new provisions, as well as the renaming of areas for consistency. We recommend these amendments be made.

¹⁷⁴ HS4 Section 42A Report GIZ Hannah van Haren-Giles paras 237-241

4. CONCLUSIONS

345. We have sought to address all material issues of the parties who have appeared before us put in contention in relation to the Commercial Zone, Mixed Use Zone, and General Industrial Zone.
346. To the extent that we have not discussed submissions on these topics, we agree with and adopt the reasoning of the respective Section 42A Reports prepared by the Reporting Officers, as amended in their written Replies.
347. **Appendix 1** sets out the amendments we recommend should be made to the PDP as a result.
348. To the extent that the Section 42A Reporting Officers have recommended amendments to the Plan requiring evaluation in terms of Section 32AA, we adopt their evaluation for this purpose.
349. Where we have discussed amendments, in particular where we have identified that further amendments should be made, our reasons in terms of Section 32AA of the Act are set out in the body of our Report.
350. **Appendix 2** sets out in tabular form our recommendations on the submissions allocated to Hearing Stream 4 topics. Our recommendations on relevant further submissions reflect our decisions on the primary submission to which they relate.

For the Hearing Panel



Robert Schofield
Chair, Hearing Stream 4

Dated: 2 February 2024